1154

SUPREME COURT OF THE UNITED STATES.

No. 77.

JANE DADE, COMPLAINANT AND APPELLANT,

vs.

THOMAS IRWIN, JUN., EXECUTOR OF THOMAS IRWIN, DECEASED, AND OTHERS.

ON APPEAL FROM THE CIRCUIT COURT UNITED STATES FOR ALEXANDRIA COUNTY, D. C.

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DISTRICT OF COLUMBIA, to wit:

Pleas before the honorable the judges of the United States circuit court of the District of Columbia for the county of Alexandria, at the court house in the town of Alexandria, the 9th day of June, 1842.

Title.

JANE DADE, complainant,
against
THOMAS IRWIN, jr., executor of Thomas Irwin, dec'd, and WILLIAM L. HODGSON, defendants. } In chancery.

Be it remembered that heretofore, to wit, on the 25th day of November, 1834, came the complainant by Christopher Neale, esq., her solicitor, and filed in the clerk's office of the said court, a certain bill against the said defendants, which with the memorandum thereon endorsed by the honorable William Cranch is in the words and figures following, to wit:

Bill.

To the honorable the judges of the circuit court of the District of Columbia and county of Alexandria, in chancery sitting: Humbly complaining, showeth unto your honors, your oratrix, Jane Dade, that in October, 1817, she loaned one James Irwin, late of Fairfax county, deceased, six hundred and eighty dollars, upon interest, at the rate of six per cent. per annum; and that on the 21st May, 1821, the said James Irwin executed his note for $826\frac{66}{100}$, being the amount of principal and interest due your oratrix on account of the loan aforesaid, payable eighteen months after date, which note is hereto annexed, marked A, and the same prayed to be taken as part of this bill. Your oratrix charges that the said James Irwin, on the same day and year aforesaid, executed an assignment under his hand and seal to John Adam, the agent of your oratrix, of a certain debt due him by Alexander Henderson and company, in order to secure to your oratrix the payment of the said $680, with interest thereon from 16th October, 1817, being the amount of money borrowed of her as above stated, and for which he gave his note as above stated, which assignment is also annexed marked B, and the same prayed to be taken in like manner as part of this bill. Your oratrix further charges that on the back of that assignment Thomas Irwin, late of Alexandria, deceased, in the year 1821 admitted his personal liability for the same, provided "full time be allowed him for prosecution of the suit," meaning thereby, and referring to, the suit then in progress in his name against Alexander Henderson for and on account of the debt of Alex. Henderson & Co. That the note of the said Alexander Henderson & Co., and upon which suit was brought by the said Thos. Irwin in his life time, was dated on the 16th January,

1804, and payable sixty days after date for $901 83, and upon which note judgment was obtained at the November term, 1805, of the circuit court of the district of Columbia and county of Alexandria, against Henderson only, the suit having, at the June term, 1804, abated against John McPherson, the other and only partner of Henderson & Co. who is now dead, and his estate insolvent, as it is said, and verily believed by your oratrix: and upon which judg't execution was issued by order of said Thomas Irwin, against Alexander Henderson, without producing any satisfaction or payment of the debt aforesaid, in part or whole, to your oratrix: that this note or the greater part thereof, to wit, about $820, with interest thereon from the 16th March, 1804, when it became due, was given for property belonging to the late James Irwin, and sold and delivered by his agent, the late Thomas Irwin, to the said Henderson & Co., and for which the said Thomas Irwin made himself liable as the agent aforesaid, in the manner already stated, on the back of the exhibit marked B, wherein he speaks of Henderson's liability *only*, or as the debt of Henderson *alone*, because the suit had abated 17 years before against John McPherson, who with Henderson constituted the firm of Henderson & Co.

Your oratrix further charges that Thomas Irwin departed this life on the day of January, 1827, leaving by his last will and testament his sons Thomas, James and William his executors: that the will aforesaid has been duly proved and recorded in the Orphan's court of Alexandria county, and that Thomas Irwin alone qualified as executor aforesaid under the will aforesaid, [and whom your oratrix prays may be made a defendant to this bill.] That the said Thomas Irwin took upon himself the duty and burden of executor aforesaid, after first duly qualifying as aforesaid, *and* in whose name the suit was revived against the said Alexander Henderson, the original debtor, and who was then absent from the United States, by attachment in chancery, and against James Sanderson and Colin Auld as garnishees of said Henderson, and the same now on the docket on the chancery side of this honorable court; that two of the defendants, to wit, Henderson and Sanderson, are dead, the first leaving no visible property, the two latter denying their indebtedness to the said Henderson, from which it would seem that there is no hope whatever of any thing ever being recovered; to all which actings and doings now of record in this court, reference is here made. Your oratrix states that, in the years 1824 and 1828 she executed two deeds of trust in the life time of Thomas Irwin to William Herbert, in which deeds she conveyed a considerable amount of real estate, situated in the town of Alexandria, to secure a certain debt then due the said Thomas Irwin, which deeds are now of record in the land records of Alexandria county, and to which reference is also here made: that the executor of Thomas Irwin, deceased, at the November term, 1830, of this court, filed his bill against your oratrix, the object of which was to obtain a decree for the sale of the property conveyed to Herbert by your oratrix, and also to appoint a commissioner in the place of the trustee, who was said to be *then* lunatic, to execute the trust aforesaid:

that your oratrix admitted in her answer the justice of the claim as stated in the bill of the complainant, and still admits it, and submitted to your honors to decree accordingly, and that a decree was entered of record at the same term, in conformity with the bill of complaint, and William L. Hodgson, esq. appointed commissioner to carry the same into effect, and whom your oratrix prays may be made a defendant to this bill.

Your oratrix charges that the sale aforesaid, under the decree aforesaid, is to take place on Wednesday the 26th inst., and that conceiving herself now fully entitled, from the *great lapse of time*, since the assumption of the said Thomas Irwin (being upwards of thirteen years) to the benefit of the debt due from Henderson & Co. to the late James Irwin, which was assigned by said Irwin to your oratrix, and subsequently assumed by the said Thomas Irwin in the manner already stated, whereby the estate of the said Thomas Irwin, instead of being a creditor of your oratrix, will, it is apprehended, be found indebted to her upon a fair settlement of accounts, although the executor of the said Thomas Irwin, when spoken to on the subject by the agent of your oratrix, declined an investigation of the same. Your oratrix therefore prays that the sale aforesaid, under the decree aforesaid, and all matters in relation thereto, may be suspended until the matter can be inquired into by your honors, and she receive that credit to which in equity and strict justice she is entitled: and in the mean time the said William L. Hodgson, esq. be enjoined, and all others under him, from proceeding in the sale aforesaid; and that the said Thomas Irwin, executor as aforesaid, may be compelled to produce the books of his testator wherein are entered the sales of the cordage which were made by his testator to A. Henderson & Co. as the agent of said James Irwin, and for which suit is now pending in this honorable court, on the chancery side thereof, against Henderson and others: and that the said executor do, on his corporal oath, answer all and singular the premises, as fully and particularly as if he were especially interrogated in relation thereto; and more especially, to say if the written assumption on the back of the exhibit marked B is not subscribed or signed in the handwriting of his testator, and if the debt so assumed, or any part thereof, has ever been paid to your oratrix, either in the life time of his testator, or since his death; and what was the amount of cordage sold by his testator to Alexander Henderson & Co. as the property of the said James Irwin, and for the recovery of which suit is now pending as already stated; and for such other and further relief as may be deemed right and proper in the premises, may it please your honors to grant your oratrix the United States most gracious writ of subpœna to the defendants directed, commanding them, &c. &c.

CHR. NEALE, *Sol. for compl't.*

ALEXANDRIA COUNTY, to wit:

Be it remembered, that Jane Dade, complainant in the bill above, personally appeared before the undersigned justice of the peace for the county aforesaid, and made oath in due form of law, that the *facts* set

forth in the bill aforesaid, of her knowledge stated, are true, and that those stated as of the knowledge of others, she believes to be true. Given from under my hand, this 21st November, 1834.

GEO. WISE.

Exhibits referred to in complainant's bill:

Exhibit A.—Exhibit A.

$826 63. ALEXANDRIA, *May* 20, 1821.

Eighteen months after date, I promise to pay to John Adam, or order, eight hundred and twenty-six dollars and sixty-three cents, for value received, in money borrowed for me from Mrs. Jane Dade, with legal interest.

JAMES IRWIN.

Endorsed. JOHN ADAM.

Exhibit B.—Exhibit B.

I do hereby assign to John Adam, the debt due me by Alexander Henderson for cordage sold him by Thomas Irwin, as my agent, for which debt said Irwin is himself liable, having received said Henderson's note without my consent. This assignment is made to secure to Jane Dade the payment of six hundred and eighty dollars, with interest thereon from the 16th of October, one thousand eight hundred and seventeen, money borrowed from her by said Adam for my use, for which I have given him my note, payable in eighteen months, with interest.

Given under my hand and seal, this 20th day of May, one thousand eight hundred and twenty-one.

JAMES IRWIN, [SEAL.]

(Endorsed) JOHN ADAM.

Test: LEWIS COLE.

Endorsed. If the within debt cannot be recovered from Alexander Henderson, I am liable for the same; provided full time be allowed for the prosecution of the suit.

THOMAS IRWIN.

Order for subpœna and injunction.

Upon filing this bill with the exhibits referred to therein, and the complainant's bond, in the usual form, in the penalty of $800, with good security, to be approved by the clerk of the circuit court for the county of Alexandria, let the injunction issue as prayed.

Nov. 24th, 1824. W. CRANCH.

At another day, to wit: at the rules held in the clerk's office of the said court for the month of February, 1835, came the complainant by her said solicitor; and the defendant, Thomas Irwin, jr., executor of Thomas Irwin, deceased, by Robert J. Taylor, esq., his solicitor, appeared and filed his answer, which, with the exhibits therein referred to, is in the words and figures following, to wit:

Answer of Thomas Irwin's executor.

The answer of Thomas Irwin, the only acting executor of Thomas Irwin, late of Alexandria, now deceased, to the bill of complaint ex-

hibited against him and William L. Hodgson, before the honorable circuit court of the District of Columbia, sitting in chancery, at Alexandria, by Jane Dade. This respondent saving to himself the benefit of exception to the many errors, imperfections and untruths in the complainants bill contained, in answer to so much thereof as he is advised is material or necessary for him to answer to, he answers and says: That he knows nothing of the loan stated by complainant to have been made by him to James Irwin, formerly of Fairfax county, now deceased, nor of the note, said by the complainant to have been given to her agent, John Adam, by the said James Irwin, for the amount of the said loan; he therefore does not admit this charge in the complainant's bill, to be true, and requires it to be established by legal and satisfactory proof. This respondent denies that the said James Irwin ever did execute the paper marked B, exhibited by the complainant, purporting to be an assignment of a debt, said to be due to the said James by one Alexander Henderson, for cordage sold to the said Alexander by this respondent's testator as agent for the said James.

He admits that in the year 1803, and for some time before and after, his testator was agent for the sale of cordage, not for the said James Irwin, as the complainant charges, but for the firm of James Irwin and Company, who were engaged in the manufacture of that article. He has understood and believes that the said firm was composed of the said James and the said John Adam, in the complainant's bill mentioned, (her brother and agent;) that for making such sales, and for storage, this respondent's testator was allowed a commission, but that he did not guarantee the debts which might be contracted in affecting such sales. That during the year 1803, and until the 16th day of January, 1804, this respondent's testator sold to the firm of Alexander Henderson & Co., composed of the said Alexander Henderson and one John McPherson, cordage of the firm of James Irwin & Co., to the amount of $736 55, or $737 22; that the said Alexander Henderson & Company became indebted to this respondent's testator in the sum of $155 61, for which two sums, with the addition of interest for sixty days, amounting to $901 83, this respondent's testator, on the 16th day of January, 1804, took the note of the said Henderson & Co. dated on that day, payable sixty days after date, which is the debt supposed to be intended to be described by complainant's bill and her exhibit B. That no other note of the said Henderson & Co., or of the said Alexander Henderson, was ever taken by this respondent's testator, in which the said James Irwin, or James Irwin & Co. had any interest. That the said note of the 16th of January, 1804, was never renewed; that it was deposited for collection in the bank of Alexandria, and not having been paid, was protested for non-payment, and was put in suit on the common law side of your honorable court on the 28th day of March, 1804, and judgment was rendered on it in favor of this respondent's testator at November term, 1805; that execution on the said judgment was taken out against the said Henderson, and that on the 8th day of May, 1806, the said Henderson was discharged under the act for the

relief of insolvent debtors: to the proceedings in which suit this respondent refers, and prays that the same may be taken as part of this answer. (For the proceedings in the common law suit of Irwin against Henderson & Co. see page 117.) That in November, 1805, the recovery of the money due on the said note being considered as desperate, this respondent's testator charged the said James Irwin & Co. with $2,224 58½, of which $737 22, the amount of their interest in the said note, formed a part, the said James Irwin & Co. having before received credit for the sum last mentioned for the said sales made to Alexander Henderson & Co.

This respondent does therefore unhesitatingly pronounce the statement contained in complainant's exhibit B, as the ground of his testator's liability for any debt due from Alexander Henderson, or Alexander Henderson & Co., in which said James Irwin, or James Irwin & Co. had an interest—"That the complainant's testator was or had rendered himself liable by having renewed the notes of the said Henderson, or the said Henderson & company," to be utterly false and unfounded, and to be a sheer fabrication, to which he does not believe or admit the said James Irwin ever put his name. That until about the fifth day of December, 1804, the Bank of Alexandria was the only bank in that town; that his testator and the said Henderson both resided and carried on their business in that town; that this respondent's testator was in the habit of transacting business with the said bank, depositing there for collection the promissory notes taken by him in the course of trade, from persons residing and transacting business in the said town, and that the books of the said bank, to which access can be readily had, will afford full proof that no such renewal was made as the complainant has charged. This respondent denies that the signature, or any part of the body of the endorsement on the complainant's exhibit marked B, purporting to be an acknowledgment by his testator of his liability for the debt of Alexander Henderson, if it could not be recovered, provided full time should be allowed for the prosecution of the suit, is in the handwriting of his testator; and he does not believe that the exhibit B, and the endorsement thereon, were written at the time the said exhibit purports to *be* bear date, but he believes them to be fabrications made many years after, and after the death of his testator, and of the said James Irwin. That the suit brought by this respondent's testator on the common law side of your honorable court, proved, as before stated, to be entirely unproductive; and that on the 28th day of November, 1816, his testator instituted proceedings on the chancery side of your court, against the said Alexander Henderson as an absent debtor, and against James Sanderson, a resident defendant, who was charged with having effects of the said Alexander in his hands; that Colin Auld was afterwards made a party to the said suit; that the object of the suit was to subject the property and effects of the said Alexander in the hands of the other defendants to the payment of the said judgment recovered by this respondent's testator against the said Alexander; that the said suit, remaining on the docket undecided at the time

of his testator's death, was revived, or directed to be revived, in this respondent's name as his executor, and is still on the docket undecided; and this respondent supposes this to be the suit intended to be referred to in the endorsement on the complainant's exhibit B.

That on the 8th day of April, 1819, the said James Sanderson filed his answer to the bill of this respondent's testator in the said suit, and on the 20th day of May term, 1821, the said Colin Auld filed his answer, neither of which admit any funds of the said Alexander Henderson to be in their hands; and that since the said answers came in, little or no hope has been entertained of recovering any thing from the said suit. This respondent refers to the proceedings in the said suit, and prays that they may be taken as part of this answer. (For proceedings in the chancery attachment suit of Irwin against Henderson and others, see page 98.) This respondent says, that on or about the 16th day of September, 1819, his testator had endorsed for the said James Irwin a note of the said James's, discounted for his accommodation at the Bank of Alexandria; that to indemnify him against this responsibility, and that to be incurred by future endorsements, to continue the said discount, the said James conveyed to one David Ricketts, as trustee, five valuable men slaves, the eldest being said to be thirty-four, and the youngest twenty-four years of age, and sundry articles of personal property. That on the first day of October, 1822, the said James Irwin's note, endorsed by this respondent's testator, and discounted at the said bank, to continue the discount aforesaid, for the sum of $1,295, was protested for non-payment, and on the 16th day of the same month, this respondent's testator paid to the said bank, in discharge of the said note, the sum of $1,299 99; that on the 15th day of July, 1824, the sum thus due to this respondent's testator was reduced by a payment arising, as this respondent believes, from a sale of one of the said slaves, to the sum of $984 41, in part discharge of which this respondent's testator received from William Herbert, his attorney, on the 16th day of October, in the same year, the complainant's three bonds, dated the 15th day of July, in that year, at 12, 18, and 24 months, for $305 86 each, with interest from the date; and the residue of his said debt from the said James Irwin having been otherwise paid, this respondent's testator relinquished to the complainant the benefit of the said deed of trust, of which, at least as to the slaves or some of them, she has availed herself. That the payment of the said bonds of the complainant was secured by a deed of trust from her to the said William Herbert, executed in the lifetime of this respondent's testator, and dated on the 15th day of July, 1824; and that no other deed of trust for the said debt was given by the complainant during the life of the said testator; but that, on the first day of October, 1828, the complainant, after the death of the said testator, (who departed this life on the 28th of January, 1827,) at the instance of this respondent, executed another deed of trust to the said William Herbert to secure the said debt; both of which deeds, being the same that are referred to in complainant's bill, are recorded amongst the records of your honorable court, and are prayed to

be taken as parts of this answer. That this respondent, by himself and his agents, has frequently and earnestly urged the payment of the said debt from the complainant, without success; that on the 1st day of October, 1828, he received from her her due bill for arrears of interest for $210 92, payable on demand; that no payment however has been made, except on or about the 27th of January, 1831, $135 42; that the said William Herbert having fallen into a state of mental incapacity, which disqualified him from acting as trustee under the deeds before mentioned, and this respondent believing that he could never obtain payment of the debt aforesaid, but by a sale of the property conveyed to him in trust as aforesaid, filed his bill on the chancery side of your honorable court, against the complainant, in the year 1830, to which the complainant filed an answer; whereupon a decree was pronounced, and the defendant, William L. Hodgson, appointed commissioner of sale. To the bill, answer, decree, and other proceedings in the said suit, this respondent refers, and prays that they may be taken as part of this answer. (For proceedings in the chancery suit, Irwin's executor against Dade, see page 120.) He also exhibits, as parts of this answer, letters from the complainant and her agent, John Adam, in relation to the debt aforesaid to this respondent and his brother, William Irwin, marked .

This respondent further says, that, soon after he qualified as executor of the said Thomas Irwin, that is to say, on or about the 6th day of February, 1827, he published, by order of the Orphan's court of Alexandria county, the usual advertisement, warning, amongst other things, the creditors of his testator to exhibit their claims against his estate on or before the 6th day of August, in the same year; and that, notwithstanding all the transactions before stated, the frequent and pressing claims made by this respondent and his attorney on the complainant for the payment of the said debt—the declared intention of making sale under the said deeds—the urgent solicitations of the complainant and her agents for further indulgence—the institution of the suit to obtain a decree of sale—the call on the creditors of the testator to exhibit their claims, this respondent does most solemnly declare and aver, that, until after the filing of the complainant's bill in this suit, he never heard or understood that any claim was or had been made on his testator or his estate, by the complainant or any other person, for or on account of the said Henderson's debt in the complainant's bill mentioned; nor did he ever hear or understand that his testator or his estate, were or had been held in any manner, or on any contingency, responsible for the payment *of the payment* of the said debt or any part of it, save only on the event of its being recovered from the said Henderson, or his property.

This respondent admits that in January, or early in February, 1831, the said John Adams made inquiry of this respondent concerning the said debt, and the prospects of its recovery, asserting his own right to some part of it as the surviving partner of the said James Irwin & company, but neither stating any claim on the part of the complainant, nor any liability of the estate of this respondent's testator, unless the money

should be recovered. He was informed by this respondent that he considered the claim desperate, or to that effect, and that this respondent would look to him for his proportion of the costs; that if a recovery should be made, it would then be time enough to examine the testator's books to ascertain their respective interests. This respondent is ready and willing to produce, on the trial of this cause, all books and papers in his power to which the complainant may entitle herself by the order of your honors. He denies all fraud, combination, and concealment, and prays that the injunction awarded the complainant may be dissolved, and that he may be hence dismissed with his costs in this behalf most wrongfully sustained.

R. J. TAILOR,
Solicitor for defendant, Irwin.
THOMAS IRWIN, Jr.,
Executor of T. I., deceased.

CITY OF BALTIMORE, to wit:

This day personally appeared Thomas Irwin, executor of Thomas Irwin, formerly of Alexandria, now deceased, before the subscriber, mayor of the city of Baltimore, and solemnly affirmed, in due form of law, that the several matters in the foregoing answer, stated as of his own knowledge are true, and all others he believes to be true.

Given under my hand and the seal of my office, this 29th day of January, 1835.

[L. S.] JESSE HUNT, *Mayor.*

Exhibits referred to [in] the foregoing answer.

No. 1.

Deed from Dade to Herbert.

This indenture, made this 15th day of July, in the year of our Lord eighteen hundred and twenty-four, between Jane Dade, of the town of Alexandria, in the District of Columbia, of the one part, and William Herbert, of the county of Fairfax and State of Virginia, of the other part, witnesseth: Whereas the said Jane Dade is now indebted to Thomas Irwin in the sum of nine hundred and seventeen dollars and fifty-eight cents, for which she has given her three bonds of equal date, with these presents, for the sum of three hundred and five dollars and eighty-six cents each, payable at twelve, eighteen and twenty-four months, with interest from this day, the interest on the whole payable half yearly; and whereas, it is her intention to secure the punctual payment of the said bonds, with the interest aforesaid, by this indenture: Now, this indenture witnesseth, that the said Jane Dade, as well for the purpose aforesaid, as for and in consideration of the sum of one dollar to her in hand paid by the said William Herbert at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents doth grant, bargain and sell

unto the said William Herbert, his heirs and assigns, forever, a certain lot or parcel of ground, situated on the east side of Union street and to the southward of Princess street, in the said town of Alexandria, and bounded as follows, to wit: beginning fifty-seven and a half feet from the corner of Princess and Union *street*, and running south with Union street to Conway's line; thence east with said line, and parallel to Princess street, into the river Potomac; thence north with the said river to the line of John Adam; thence west with his line to the beginning: to have and to hold said lot, with all and singular the appurtenances, unto him the said William Herbert, his heirs and assigns, to his and their only use and behoof, forever. In trust, for the following uses, intents and purposes, and for none other, to wit: for the use and behoof of the said Jane Dade, until default shall be made; but if the said Jane Dade shall fail to pay either of the said bonds as they may become due, or shall fail to pay the interest on the said bonds half yearly, then and in that case, it shall be the duty of the said William Herbert, when he shall be thereto requested by the said Thomas Irwin, to proceed to sell the hereby granted premises, at public auction, for ready money, after giving sixty days' notice of the time and place of sale in one of the Alexandria newspapers; and with the money arising therefrom, after deducting expenses, to pay to the said Thomas Irwin the amount of said bond and interest, or so much thereof as may be due and unpaid, and the balance, if any, to pay to the said Jane Dade or her legal representatives. And the said Jane Dade, for herself and her heirs, doth covenant to and with the said William Herbert, his heirs and assigns, that she will forever warrant and defend the premises hereby granted against the claim or demand of all persons whomsoever. In testimony whereof, the parties to these presents have hereunto set their hands and seals, the day and year first before written.

JANE DADE, [SEAL.]
[SEAL.]

Signed, sealed, and delivered in presence of—
WM. L. KENEDY,
JAMES DEMPSEY,
N. HERBERT.

At an United States circuit court of the District of Columbia, continued and held for the county of Alexandria, the 24th day of November, 1824, this deed, from Jane Dade to William Herbert, was proved by the oaths of William L. Kenedy, James Dempsey, and Noblet Herbert, to be the act and deed of the said Jane Dade, and ordered to be recorded.

Teste: EDM. I. LEE, *C. C.*

No. 2.

Deed—Irwin to Ricketts.

This indenture, made this sixteenth day of September, in the year one thousand eight hundred and nineteen, between James Irwin, of the county of Fairfax and State of Virginia, of the one part, and David Ricketts, of

the same county, of the other part: Whereas William Simms, of the said county, became bound as security for the said James Irwin in a certain replevin bond, taken under a distress for rent by one Thomas Tracey, dated on or about the 5th of January, 1817, for the payment of the sum of six hundred and twenty-one dollars, on which bond judgment has since been rendered in the county court of Fairfax, against the said James Irwin and William Simms, to which judgment the said James Irwin has obtained an injunction from the superior court of chancery, held at Fredericksburg: and whereas, Samuel Collard, of said county, has become bond as security for the said James Irwin in the bond given to obtain said injunction: and whereas, the said James Irwin has obtained an injunction from the circuit court of the District of Columbia for the county of Alexandria, to restrain proceedings on certain judgments obtained by the said Thomas Tracy on the common law side of the said court, against the said James Irwin, and against him and John Adam, and has given bond, with Thomas Irwin security, under the order for said injunction, the penalty of which bond is the sum of seven thousand dollars; and the said James Irwin being desirous of indemnifying the said William Simms, Samuel Collard, and Thomas Irwin, and their representatives, from all damage and loss, in any manner to arise from the securityships aforesaid. Now, this indenture witnesses, that the said James Irwin, to effect the said purpose, and in consideration of one dollar to *have* paid by the said David Ricketts, of which he does hereby acknowledge the receipt, has granted, bargained and sold, and does by these presents grant, bargain and sell, to the said David Ricketts, the following slaves and other personal estate, that is to say: William Ross, aged thirty-three years; Bill King, aged thirty-four; George Bronough, aged twenty-nine; Daniel Jenifer, aged thirty; and Robert Brooks, aged twenty-four; also, five horses, eighteen cows and eighteen hogs, one wagon, two carts, two bar-shear and three shovel ploughs and one harrow, together with the following household furniture, viz: two carpets, one sideboard, two knife cases, one desk and book case, eighteen chairs, a sofa, one easy chair, one dining table with ends, one dining table, two breakfast tables, five feather beds, four bedsteads, three copper boilers and four iron pots. To hold the said slaves and other personal property to the said David Ricketts, his executors and administrators, to his and their only use, for the purposes following and none other, that is to say: to permit the said James Irwin to retain possession and to have the use of said slaves and other personal estate until a sale becomes necessary under the terms of this deed; and if either or both of the injunctions aforesaid should be dissolved so as to expose all or any of the securities before mentioned, or the representatives of any of them, to the payment of the money for which they have become responsible; and if the said James Irwin, or his representatives, shall not, within ten days after such dissolution, fully exonerate the parties who may be liable, under the injunction so dissolved, fully and finally, from the responsibility for him incurred as aforesaid, then, that the said David Ricketts, or his executors or administrators, on the request

of such security, or his or their representatives, proceed to sell, at public auction, for cash, or on such credit as the parties concerned may direct, (after ten days' notice of the time and place of sale, in any newspaper published in Alexandria,) the said slaves and other personal property, or so much thereof as may be necessary; and shall, after defraying all reasonable charges and expenses of sale, proceed to pay and satisfy the judgment on which the injunction as aforesaid granted shall have been dissolved, with all costs attending the same, or to which the said security shall be liable; or, if the said security, or his representatives, shall have paid the same or any part thereof, shall refund to him or them the sum so paid, with interest, from the time it shall have been advanced: and as to any surplus of money, or any part of the said personal property which may remain after the said securities shall have been fully relieved from their responsibility, either by the perpetuation of the said injunctions, or by the payment of the said judgments, the said David Ricketts, his executors or administrators shall pay and deliver the same to the said James Irwin or to his representatives. And the said James Irwin, for himself, his executors and administrators, does hereby covenant with the said David Ricketts, his executors, and administrators, and assigns, to warrant and defend the slaves and other personal property hereby conveyed to the said David Ricketts, his executors, administrators, and assigns, against the claims and demand of all persons whatever. And the said David Ricketts, for himself, his executors and administrators, does hereby covenant with the said James Irwin, William Simms, Samuel Collard and Thomas Irwin, and their representatives, severally, faithfully to execute the trusts hereby created. In witness whereof the said James Irwin and David Ricketts have hereto set their hands and seals, the day and year first above written.

JAMES IRWIN, [SEAL.]
DAVID RICKETTS, [SEAL.]

Sealed and delivered in presence of—
WM. H. FOOTE.

Memorandum. Whereas the said Thomas Irwin has endorsed the note of said James Irwin, for the sum of eighteen hundred dollars, which has been discounted at the Bank of Alexandria for the accommodation of said James; which discount, in whole or in part, will be continued at the pleasure of the parties concerned; and the said James Irwin is desirous of indemnifying the said Thomas Irwin and his representatives from all damage and loss, in any manner to arise from the said endorsement or any future endorsement, to be made by the said Thomas Irwin to continue the said loan or any part thereof. Now, this in[denture witnesseth, that the said] David Ricketts, for himself, his executors and administrators, does, in consideration of one dollar to him paid by the said James Irwin and at his special request, hereby covenant with the said James Irwin, his executors and administrators, that he, the said David Ricketts, his executors and administrators, will, in addition to the trusts within declared, stand possessed of the slaves and

other property within conveyed, to the following uses and trusts, that is to say: in case both of the injunctions within mentioned should be perpetuated so as to relieve the securities within named from the responsibility by them undertaken; or if, after fully indemnifying the within named securities, any surplus of the property conveyed should remain, then that the whole of the property conveyed, or such surplus as shall be left, shall be held to the indemnity of the said Thomas Irwin and his representatives, against the endorsement above mentioned; and if the said note of eighteen hundred dollars, or any note to be hereafter given by the said James Irwin, and endorsed by the said Thomas Irwin, to continue the said discount, or any part thereof, shall not be punctually paid when due, then that the said David Ricketts, his executors or administrators, shall make sale of the said slaves and other personal property, or of so much as shall remain after satisfying the purposes within specified on the terms and notice within mentioned, and shall apply the money thence to arise to the indemnity of the said Thomas Irwin or his representatives, by paying such note, or refunding to the said Thomas Irwin, or his representatives, the money by him or them paid under such endorsements; provided that no sale shall be made for the indemnity of the said Thomas Irwin as endorser, until the said injunction shall have been finally perpetuated so as to discharge the securities within mentioned from all responsibility, or until they shall have been discharged from such responsibility by the payment or other satisfaction of the said judgment.

In witness whereof the said James Irwin, and David Ricketts, have hereunto set their hands and seals, the day and year first within written.

JAMES IRWIN, [SEAL.]
DAVID RICKETTS, [SEAL.]

Signed, sealed, and delivered in presence of
WM. H. FOOTE.

FAIRFAX COUNTY, to wit:

We, William H. Foote and George Taylor, magistrates of the said county, do hereby certify that James Irwin, party to the within conveyance, and to the endorsement thereon, has duly acknowledged the same, and the above endorsement thereon, before us, on the twentieth day of September, eighteen hundred and nineteen, and desired us to certify the said acknowledgment to the clerk of the county court of Fairfax, in order that the said conveyance may be recorded. As witness our hands and seals.

WM. H. FOOTE, [L. S.]
GEORGE TAYLOR, [L. S.]

CLERK'S OFFICE,
Fairfax county court, 21*st September*, 1819.

This deed, from James Irwin to David Ricketts, in trust for Samuel Collard, William Simms, and Thomas Irwin, having been duly acknowledged before William H. Foote and George Taylor, gentlemen,

justices of the peace for the county of Fairfax, and certified by them under their hands and seals, was this day returned to the clerk's office of this county, and, together with the certificate of the said acknowledgment and memorandum thereon endorsed, are admitted to record.

Test: WM. MOSS, *Clerk.*

A copy, test: THOS. MOSS, *Clerk.*

Deed from Dade to Herbert.

This indenture, made this first day of October, in the year one thousand eight hundred and twenty-eight, between Jane Dade, of the county of Alexandria, in the District of Columbia, of the one part, and William Herbert, of the county and district aforesaid, of the other part: whereas, the said Jane Dade was indebted to the late Thomas Irwin, in his lifetime, in the sum of nine hundred and seventeen dollars and fifty-eight cents, with interest thereon, to secure the payment of which she gave a deed of trust on certain wharf property in Alexandria, situated on the east side of Union street, adjoining the property of the late Joseph Conway; and whereas, Thomas Irwin, jr., as executor for the said Thomas Irwin, has required *has required* of the said Jane Dade further security for the said debt, now amounting to eleven hundred and twenty-eight dollars, with interest from the 15th of January last past, payable half yearly, which security it is her intention by this indenture to give and make. Now, this indenture witnesses, that the said Jane Dade, as well for the purpose before expressed, as in consideration of one dollar to her paid by the said William Herbert, of which the receipt is hereby acknowledged, has granted, bargained, and sold, aliened and confirmed, and by these presents, doth grant, bargain, and sell, alien and confirm, to the said William Herbert, his heirs and assigns forever, the following lots or parcels of ground situate, lying and being in the county of Alexandria, in the District of Columbia, to wit: one house lot, corner of Fairfax and Queen streets, twenty feet on Fairfax street, and running to the centre of the square; the lot opposite to John Vowell's present residence, fronting on both streets, one-eighth of a square; one lot on Water and Princess streets, one hundred and eighteen feet on Water street, and on Princess street one hundred and thirty-six; one lot opposite the same, on Princess street, and an ally, forty-eight feet by forty-six; one lot on Oronoko street, one-fourth of a square, running through the centre to Pendleton street, and opposite Mordicai Miller's bake house; one-half of an undivided half square, less sixty feet, on Oronoko, Royal, and Pitt streets, where the old catholic chapel stood, and opposite Hollingsberry's brick yard; the said property being subject to the payment of a debt of eight hundred and fifty dollars, due the banks of Potomac and Alexandria. To have and to hold the said premises, before described, to the said William Herbert, his heirs and assigns, to their only proper use, for ever. In trust however for the following purposes, and none other, that is to say: to permit the said Jane Dade, her heirs and assigns, to retain possession, and to receive the rents and profits without account, until a sale become neces-

sary under the terms of this deed; but, in case the said Jane Dade shall fail to pay to the said Thomas Irwin, jr., executor as aforesaid, any bond or note, with any interest that may be due thereon, when he shall demand the payment of the same, whether given to his testator or himself, then the said William Herbert, or his heirs, shall, on the request of the said Thomas Irwin, jr., his representatives or assigns, proceed to sell the premises before described, at public auction, for cash, or on such credit as the parties concerned may direct; and, after defraying all reasonable expenses and charges attending the sale, shall, out of the money thence to arise, pay whatever sum of money may be due to the said Thomas Irwin, jr., either as principal or interest; and if any balance remain, shall pay over the same to the said Jane Dade or her legal representatives, *heirs or assigns*, and shall convey the premises sold to the purchaser or purchasers. Provided, always, and on this condition, that if the said Jane Dade, her heirs and assigns, shall, at any time before sale actually made, pay the amount of money due, and shall also pay all costs and charges which shall have accrued under this instrument, then this indenture shall become void, and all the estate hereby granted shall cease and determine. And the said Jane Dade, for herself and her heirs, executors and administrators, doth hereby covenant with the said William Herbert, his heirs and assigns, that the said Jane Dade is, at the time of the delivery thereof, seised in possession of a perfect and absolute estate in fee simple in the premises conveyed, free from condition, charge, right, or possibility of dower, or other incumberance, save the bank debt aforesaid; and that she and her heirs will at any time hereafter, at the request and cost of the said William Herbert, his heirs or assigns, execute and deliver any further reasonable conveyances which may be necessary more fully to transfer the title to the premises before described, to the said William Herbert, his heirs or assigns, according to the true intent and meaning hereof. And, lastly, that the said Jane Dade, for herself and her heirs, the said premises before described, will warrant and forever defend to the said William Herbert, his heirs and assigns, against the claims and demands of all persons whomsoever, save the bank debt aforesaid. And the said William Herbert, for himself and his heirs, doth hereby covenant with the said Jane Dade, and the said Thomas Irwin, jr., executor, that the said William Herbert will faithfully execute and carry into full effect the several trusts hereby created.

In witness whereof, the parties to this indenture have hereunto set their hands and seals, the day and year first before written.

JANE DADE, [SEAL.]
[SEAL.]

Sealed and delivered in presence of—
JOHN ADAM,
JAMES DEMPSEY,
JAMES MANDEVILLE.

At an United States circuit court of the District of Columbia, continued and held for the county of Alexandria, the 11th day of Novem-

ber, 1828, this deed of trust, from Jane Dade to Wm. Herbert, was proved by the oaths of John Adam, James Dempsey, and James Mandeville, to be the act and deed of the said Jane Dade, and ordered to be recorded.

Test: EDMUND I. LEE, *C. C.*

And thereupon came the defendant, Thomas Irwin, by his said attorney, and filed the following notice:

To Mrs. Jane Dade:

You will please take notice that I have filed my answer to the bill of complaint and injunction filed by you against me, as executor of Thomas Irwin, deceased, and William L. Hodgson, in the circuit court of the District of Columbia, sitting in chancery at Alexandria; and that on the sixth day of the next May term of the said court, or as soon thereafter as counsel can be heard, I shall move the court to dissolve the injunction awarded against me and said Hodgson, at your instance.

THOMAS IRWIN, Jr.,
Executor of Thomas Irwin, deceased.

General replication to answer, &c.

And at the rules held in the clerk's office of the said court, for the month of March, eighteen hundred and thirty-five, came the parties aforesaid, by their solicitors, and the plaintiff replies generally to the defendant Irwin's answer, and general commissions awarded to take depositions.

The court refuse to dissolve the injunction, and issue ordered.

At another day, to wit, at a court continued and held for the district and county aforesaid, the 2d day of November, 1835, came the parties aforesaid, by their solicitors, and on hearing, the court refused to dissolve the injunction, and order it to stand until final hearing. The court suggest that an issue should be made up, to be tried at the bar of the court sitting as a court of law, to try the question of the genuineness of the signature of Thomas Irwin, (the defendant's testator) on the plantiff's exhibit B.

Cause set for hearing.

And at another day, to wit, at the rules held in the clerk's office of the said court, for the month of April, eighteen hundred and thirty-six, came the parties aforesaid, by their solicitors, and this cause is set for hearing, on bill, answer, replication, exhibits, and depositions.

And at another day, to wit, at a court continued and held for the district and county aforesaid, the twenty-eighth day of May, eighteen hundred and thirty-six, came the parties aforesaid, by their solicitors, and this cause is continued.

And at a court continued and held for the country aforesaid, the twenty-second day of October, eighteen hundred and thirty-six, came the parties aforesaid, by their solicitors, and this cause is continued.

Issue ordered.

And at another day, to wit, at a court continued and held for the county and district aforesaid, came the parties, by their solicitors, and it is ordered by the court, that a jury be impannelled and sworn at the bar of this court to enquire whether Thomas Irwin, late of Alexandria, the testator of the defendant Thomas Irwin, did or did not execute, by subscribing his name thereto, the contract or agreement in writing indorsed on the complainant's exhibit B? And this cause is continued.

At another day, to wit, at a court continued and held for the district and county aforesaid, the 14th day of October, 1837, came the parties aforesaid by their solicitors, and this cause is continued.

And at a court continued and held for the district and county aforesaid, the 4th day of June, 1838, came the parties aforesaid by their solicitors, and this cause is continued.

At another day, to wit, at a court continued and held for the district and county aforesaid, the 16th day of May, 1839, came the parties aforesaid by their solicitors, and it is ordered by the court that a jury be impannelled and sworn at the bar of this court, to inquire whether Thomas Irwin, late of Alexandria, the testator of the defendant Thomas Irwin, did or did not execute, by subscribing his name thereto, the contract or agreement in writing, endorsed on the complainant's exhibit B.

Jury sworn.

And thereupon came a jury, to wit: William Gregory, Benjamin H. Lambert, John Corse, William Veitch, James H. McVeigh, Anthony C. Cazenove, John Wood, Alexander Waugh, Benjamin Waters, John Grubb, Thomas Taylor and William W. Harper, who being sworn well and truly to try the issue above made, and a true verdict to give according to the evidence, by consent of parties and with the assent of the court, are continued until to-morrow.

And at a court continued and held for the district and county aforesaid, the 17th day of May, 1839, came the parties aforesaid by their said attorneys, and the jury sworn to try the issue in this cause appeared in court, and by consent of parties and with the assent of the court, are continued until to-morrow.

At another day, to wit, at a court continued and held for the district and county aforesaid, the 18th day of May, 1839, came the parties aforesaid by their attorneys, and the jury sworn to try the issue in this cause appeared in court, and having heard the arguments of counsel, retired to consider of their verdict.

Jury discharged, and a new trial ordered.

And at another day, to wit, at a court continued and held for the county and district aforesaid, the 3d day of June, 1839, came the parties aforesaid by their solicitors, and the jury sworn to try the issue in this cause appeared in court, and not having been able to agree upon a verdict, by consent of parties and with the assent of the court, a juror is

withdrawn, and the rest of the jury discharged; and this cause is continued till the next term for a new trial to be had therein.

Order, directing an issue to be tried by a jury, rescinded.

And now here at this day, to wit, at a court continued and held for the district and county aforesaid, the 9th day of June, 1842, (until which time this cause had been regularly continued,) came the parties aforesaid by their solicitors, and it is ordered and decreed by the court that the order heretofore made, directing that a jury be impannelled and sworn at the bar of this court, to inquire whether Thomas Irwin, late of Alexandria, the testator of the defendant Thomas Irwin, did or did not execute, by subscribing his name thereto, the contract or agreement, in writing, endorsed on the complainant's exhibit B, be rescinded.

Injunction dissolved and bill dismissed.

And this cause having been argued by counsel, and the court having considered the same, doth order and decree that the injunction be dissolved, and complainant's bill dismissed with costs.

Appeal.

From which decree the complainant prays an appeal to the Supreme Court of the United States, which is granted, upon giving bond and security, to be approved by the court or one of the judges thereof, in the sum of eight hundred dollars, conditioned to pay all costs and damages which the defendant, Irwin, may sustain, should the complainant fail to prosecute his appeal with effect.

Complainant's depositions.—Depositions.

To Thomas Irwin, executor of Thomas Irwin, deceased, late of Alexandria, and William L. Hodgson.

Take notice that on Saturday the 4th of April next, I shall proceed to take the depositions of John Adam, Lewis Cole and others, at the office of Adam Lynn, esq., a justice of the peace for the county of Alexandria, between the hours of nine, A. M. and two P. M. of that day; which depositions, when so taken, are to be read in evidence in my behalf, on the trial of the injunction now depending in the circuit court of the District of Columbia and county of Alexandria, wherein I am plaintiff, and you and William L. Hodgson are defendants; when and where you can attend and put interrogatories should you see fit.

March 31st, 1835. JANE DADE.

I acknowledge service of this notice, April 3d, 1835.

WM. LUDWELL HODGSON.

DISTRICT OF COLUMBIA, to wit:

[L. S.] The United States of America to Adam Lynn, Newton Keene and George Wise, justices of the peace for the county of Alexandria, in the District of Columbia, gentlemen, greeting:

Know ye, that we, trusting to your fidelity and provident circumspection in diligently examining John Adam, Lewis Cole and others,

witnesses in behalf of Jane Dade in a suit depending in our United States circuit court of the District of Columbia, for the county of Alexandria, between said Jane Dade, complainant, and Thomas Irwin's executor, and William L. Hodgson, defendants; we therefore desire you, that at such time and place as you shall appoint, you assemble yourselves together, and the witnesses aforesaid, before you, or any two or more of you, that you call and cause to come and diligently examine, on the holy evangelist of Almighty God, touching the matters in controversy between the aforesaid parties; and when you have examined them, and taken their depositions as aforesaid, that you return the same to our said court, certified under your hands and seals, inclosed together with this writ. Witness, William Cranch, esq., chief judge of our said court, this 31st day of March, in the year of our Lord, 1835.

EDM. I. LEE, *C. C.*

The depositions of John Adam, Lewis Cole and others, taken at the office of Adam Lynn, in the town of Alexandria, on the 4th day of April, 1835, between the hours of 9 A. M. and 2 P. M. of that day, in pursuance of the annexed commission and notice, to be read in evidence on behalf of the complainant, on the trial of an injunction suit now depending in the circuit court of the District of Columbia for the county of Alexandria, in which Jane Dade is complainant, and Thomas Irwin, executor of Thomas Irwin, deceased, and William L. Hodgson are respondents.

Deposition of John Hooff.

John Hooff, a witness on the part of the complainant, being first duly sworn to testify the whole truth, in answer to the several interrogatories put to him, deposes and says, as follows:

Interrogatory 1—Were you personally acquainted with the late Thomas Irwin, of Alexandria, deceased?

Answer to 1st interrogatory—I was.

Interrogatory 2d—Are you familiar with his handwriting?

Answer to 2d interrogatory—I was, during his life.

Interrogatory 3d—Look at the paper writing annexed to the complainant's bill, marked B, upon the back of which is an assumption in writing with the name "Thomas Irwin" subscribed thereto, and say if it is the genuine signature of Thomas Irwin, late of Alexandria, deceased?

Answer to 3d interrogatory—So far as I am capable of judging, I believe it to be his signature.

Cross interrogatories to J. Hooff by defendant Hodgson.

1—Look at the said exhibit B, and say whether from the writing in the body of the assumption and the signature thereto, you believe it was written at the time it purports to have been written?

Answer to 1st cross interrogatory—I am not able to answer this question satisfactorily.

To which interrogatory complainant excepts.

2d—In whose handwriting is the said "assumption" in the exhibit B?

Answer—I think it resembles Mr. Jno. Adams's writing, who is said to be the brother of complainant, Jane Dade?

3d interrogatory—Have you recently examined or seen any writings or signatures of Thomas Irwin, deceased, the testator of the defendant Thomas Irwin, so that you are enabled to speak positively as to the genuineness of the signature which you suppose to be his?

Answer to 3d interrogatory—I have this morning seen his signature, but have no distinct recollection of seeing it for some years before, and I believe the signature now exhibited to me to be his: and from my former recollection of his signature I believe it to be his.

And further deponent saith not.

JOHN HOOFF.

Deposition of Thos. Sandford.

Thomas Sandford, a witness for complainant, being first duly sworn to testify the whole truth, deposeth as follows:

Interrogatory 1—Were you personally acquainted with the late Thomas Irwin, of Alexandria, deceased?

Answer to 1st interrogatory—I was.

Interrogatory 2d—Are you familiar with his handwriting?

Answer to interrogatory 2d—I have been in former days.

Interrogatory 3d—Look upon the paper writing annexed to complainant's bill marked B, upon the back of which is an "assumption" in writing, with the name "Thomas Irwin" subscribed thereto, and say if it is the gennine signature of Thomas Irwin, late of Alexandria?

Answer to 3d interrogatory—I believe it is.

Interrogatory 4th—Have you any writings in your possession to which the signature of the late Thomas Irwin, the defendant's testator, is subscribed? If so, please exhibit them?

(The defendant, Hodgson, excepts to the 4th interrogatory and to any answer that may be given to it.)

Answer to 4th interrogatory—I have; one of which is now exhibited as a part of this answer and marked C.

Cross interrogatories by defendant, Hodgson.

1st cross interrogatory—Look at the said exhibit B, and say, whether, from the writing in the body of the said "assumption" and the signature thereto, you believe that it was written at the time it purports to have been written, or about the year 1821; and does not the handwriting appear recent?

Answer to 1st cross interrogatory—I can see nothing in the paper to induce me to believe that it was not written at the time it purports to have been written; and it does not appear to me to be recent.

2d cross interrogatory—In whose handwriting is the body of the said "assumption" endorsed B, and the assignment of James Irwin?

Answer to 2d cross interrogatory—I believe it to be the handwriting of John Adam.

3d cross interrogatory—Examine the flourish under the signature "Thomas Irwin" on exhibit B, and state whether you believe it to be his?

Answer to 3d interrogatory—I do.

And further he saith not.

TH. SANDFORD.

Deposition of J. C. Vowell.

John C. Vowell, also a witness on the part of the complainant, being first duly sworn to testify the whole truth, deposeth and says, as follows:

Interrogatory 1st—Were you personally acquainted with the late Thomas Irwin, of Alexandria, deceased?

Answer to 1st interrogatory—I was, for many years.

Interrogatory 2d—Are you familiar with his handwriting?

Answer to 2d interrogatory—I have seen a great deal of it, and have seen him write many times.

Interrogatory 3d—Look upon the paper writing annexed to complainant's bill marked B, upon the back of which is an assumption in writing with the name of "Thomas Irwin" subscribed thereto, and say if it is the genuine signature of Thomas Irwin, late of Alexandria, deceased?

Answer to 3d interrogatory—To the best of my belief it is the signature of Thomas Irwin.

Cross interrogatories by defendant, Hodgson.

Cross interrogatory 1st—Look at the said exhibit B, and say whether from the writing in the body of the "assumption" and the signature thereto, you believe that it was written at the time at which it purports to have been written, or about the year 1821, and prior to 1828?

(To which interrogatory complainant excepts.)

Answer to 1st interrogatory—I cannot pretend to say: it would be all guess work with me.

And further deponent saith not.

JNO. C. VOWELL.

Deposition of Lewis Cole.

Lewis Cole, also a witness on the part of the complainant, being first duly sworn to testify the whole truth, deposes and says, as follows:

Interrogatory 1st—Were you personally acquainted with James Irwin, late of Fairfax county, Virginia?

Answer to 1st interrogatory—I was.

Interrogatory 2d—Look upon the paper writing purporting to be an assignment to John Adam for the benefit of Jane Dade, attached to the complainant's bill dated the 20th day of May, 1821, and subscribed with the name of "James Irwin," and the said paper marked B, and say if your signature thereto as a witness is genuine, and if James Irwin, for-

merly of Fairfax county, Virginia, acknowledged to you at the time of your witnessing it, that he had signed the same?

Answer to 2d interrogatory—My signature is genuine, but it has been so long ago that I cannot now recollect what passed at the time; he further says that he has frequently witnessed writings for James Irwin.

Interrogatory 3d—Did the said James Irwin ask you to witness the aforesaid paper to which your name is subscribed as a witness?

(The defendant, Hodgson, excepts to the 3d interrogatory.)

Answer to 3d interrogatory—I believe he did.

Cross interrogatories by defendant, Hodgson.

Cross interrogatory 1st—What is your age and occupation, and what was it in 1821?

Answer to 1st cross interrogatory—I was a rope maker, and served my time with James Irwin. I am about forty-six years of age.

Cross interrogatory 2d—Is James Irwin alive; and if not, when did he die?

Answer to 2d cross interrogatory—He died about ten years ago.

Cross interrogatory 3d—Have you any distinct recollection of being called upon by James Irwin to witness his signature to the paper B? if so, state particularly.

Answer to 3d cross interrogatory—I have not. It has been so long since. I do not recollect particularly things that do not concern me.

Cross interrogatory 4th—Where were the papers A and B first shown to you, and by whom?

Answer to cross interrogatory 4th—I do not think I have seen those papers since 1821, until under the present examination.

Cross interrogatory 5th—At what time did you sign your name to the paper B?

Answer to 5th cross interrogatory—It has been so long that I do not recollect.

Cross interrogatory 6th—Have you any further recollection or knowledge of the papers A and B, other than from seeing your name on paper B?

Answer to 6th cross interrogatory—I have no other recollection than from seeing the paper.

And further deponent saith not.

LEWIS COLE.

Deposition of John Adam.

John Adam, also a witness on the part of the complainant, being first duly sworn, deposes and says as follows:

Interrogatory 1st—Have you been in the habit of transacting business for Jane Dade, the complainant in this cause, as her agent?

Answer to 1st interrogatory—I have, ever since her widowhood.

Interrogatory 2d—Were you acquainted with the late James Irwin, of Fairfax county, Virginia?

Answer to 2d interrogatory—I was, from my boyhood.

Interrogatory 3d—Were you engaged in business with said James Irwin? if so, when did it commence and when did it end?

Answer to 3d interrogatory—I was engaged with him in the rope making business, commencing in 1802, and ending in 1808.

Interrogatory 4th—Were you examined upon this point (as to the partnership) before? and if so, state when, and in what cause, and what was the substance of your answer thereto.

(The defendant, Hodgson, excepts to the 4th interrogatory.)

Answer to 4th interrogatory—I was examined as to the said partnership in 1816 or 1817, in a suit between James Irwin and Tracy. I then stated the time of said partnership to be from 1802 to 1808, as before stated.

Interrogatory 5th—What were the terms and conditions upon which you dissolved your partnership with James Irwin [in] 1808?

Answer to 5th interrogatory—I received from said Irwin at that time a transfer of his interest in the property purchased by the concern of my brother, and relinquished to him all my interest in the partnership, of every description.

Interrogatory 6th—Did Jane Dade, the complainant, ever loan the said James Irwin, now deceased, through you, any money? If so, when did she, and to what amount? State particularly the circumstances.

Answer to 6th interrogatory—She did, in 1816 or 1817. She loaned to him, at two several times, money to the amount of $680.

Interrogatory 7th—Look upon the note of hand attached to complainant's bill, signed James Irwin, dated 20th May, 1821, and payable eighteen months after date, for $826 63, and marked A, and say if the said James Irwin signed the same? and if he did, state why and for what that note was given.

Answer to 7th interrogatory—It is the note he gave for the sum of money loaned to him, adding interest to the principal up to the date of the note.

Interrogatory 8th—Look upon the assignment marked B, and also attached to the complainant's bill, and signed James Irwin, and say if the said James did sign it? and if he did, state the reason for such assignment.

Answer to 8th interrogatory—He did sign it; and the reason he gave for it was, to secure the money loaned to him; it was his own offer.

Interrogatory 9th—Look upon the assumption in writing on the back of the assignment, and subscribed "Thomas Irwin," and say if it is the genuine signature of the late Thomas Irwin, of Alexandria, the the defendant's testator; and, also, state particularly what passed at the time, between the said Thomas Irwin, now deceased, and yourself, as agent of Jane Dade aforesaid.

Answer to 9th interrogatory—The signature of Thomas Irwin is his signature, and was made in my presence in his counting-room. At James Irwin's request I called upon the said Thomas Irwin for his indorsement upon the said assignment; when I handed him the said as-

signment, upon reading it, he appeared displeased, and replied it was unkind and ungenerous in James Irwin to make any disposition of that debt, as he, Thomas Irwin, had used every means to recover the money; that there was a fair prospect of a recovery of it at that time; and again, it was unkind in James Irwin to dispose of it. I told him I had nothing to say to it, that if he refused to endorse it, I should return it to James Irwin. After some further conversation of the same kind, I asked him if he would make a conditional endorsement upon it, as he said the money was likely to be recovered? He then asked me what that condition was. I then took the assignment and wrote the words on it at his desk, and handed it to him; after a little pause, he observed that, as he had got his hand into it, he must get it out in the best way he could, and signed it, and returned it to me. I remained some time after, and talked the matter over with him.

Interrogatory 10th—State, if you can, the reason why Thomas Irwin, deceased, the defendant's testator, admitted himself to be personally liable, and for which he made his written assumption on the back of the exhibit marked B.

Answer to 10th interrogatory—The reason of his liability was the extension of time on the note of Henderson & Co. without the consent of James Irwin & Co., for whom he was the agent for the sale of cordage, and that at the time of such extension in taking a new note from Henderson & Co., he included a private debt of his own, and brought suit for the said note in his own name, in the circuit court of the District of Columbia, for the county of Alexandria. He further says that, before the cordage sold to Henderson & Co. became due, they called upon the said Thomas Irwin and *requested him to extend the time, which he did, and took the note as above stated.*

Interrogatory 11th—Have you any writings in your possession to which the signature of the late Thomas Irwin, the defendant's testator, is subscribed? If so, please exhibit them.

(The defendant, Hodgson, excepts to the 11th interrogatory, and to the producing of any paper.)

Answer to 11th interrogatory—I have several receipts now exhibited, and marked 1, 2, which were signed in my presence.

Interrogatory 12th—State, if you can, the reason why the complainant, Jane Dade, has permitted this claim to remain so long dormant?

Answer to 12th interrogatory—Because, from the condition of the assumption, she could not call upon Thomas Irwin until the suit against Henderson & Co. was settled, or, while pending.

Interrogatory 13th—Have you recently had any conversation with the defendant, Thomas Irwin, executor of the late Thomas Irwin, deceased, respecting the claim of Jane Dade, the plaintiff? If so, please state it.

Answer to 13th interrogatory—Not very recently. The last conversation I had with him on that subject was shortly after the death of the said Thomas Irwin. At that time I had a long conversation with him. I had called at the request of my sister to see him, in consequence of

an urgent request from him to her to close her business with him by deed of trust. In that conversation I asked him, what was the state of the suit against Henderson? He answered that question by another, that was, what interest I had in it, or why I asked? I replied that, personally I had no interest in it, but as it respected my sister, Mrs. Dade, I was anxious to know whether that suit would soon be determined. He then asked me why? I told him she looked forward to the termination of that suit to relieve her from her present difficulty. My allusion was to the claim for which a deed of trust had been given by her for the benefit of Thomas Irwin, deceased,—the debt against Henderson & Co., which was then in suit, or the greater part of it, was assigned by James Irwin for the said Jane Dade's benefit. He then told me that the suit was brought in the name of his father, and that he knew no other person in the business. I asked him if he knew how the debt originated? He replied that he did; that it was a debt due to his father, and that he knew no other person that had any thing to do with it. I told him that a greater part of it was a debt due to James Irwin & Co. for the sale of cordage to Henderson & Co., for which his father had made himself responsible; that if he would let me look at his father's books, I would show him the items comprising the account. He replied that he would let no man see his father's books, and would know no other person in the business. After conversing with him some time in relation to the deed of trust, he got up of his own accord, and took down a bundle of papers from his desk, and went on to state that the suit had progressed in such and such places, and there was such and such cords, and that there was but little chance of a recovery; and then the conversation ended.

I then remarked, that if he denied any other person having any interest in that debt but his father, I had nothing more to say about it. I met with him once since, and had a short conversation with him about the deed of trust in relation to the enforcing of it.

Interrogatory 14th—Have you any interest in the event of this suit?

Answer to 14th interrogatory—I have not.

Cross examined by defendant Hodgson.

Cross interrogatory 1st—Was not Jane Dade, the complainant, indebted to Thomas Irwin, deceased, on the 20th May, 1821? State the amount, and how and where said debt originated.

Answer to 1st cross interrogatory—She was not indebted to Thomas Irwin, deceased, at that time; she became indebted to Thomas Irwin sometime after the death of James Irwin, by assuming the payment of certain notes, which I had given to Thomas Irwin, to the amount of a note which he had endorsed for James Irwin in the Bank of Alexandria, and for the security of which he had a lien upon some men slaves which I had in my possession, having had a bill of sale of them, subject to Thomas Irwin's lien for the said endorsement, and for his being security in a suit for James Irwin. After James Irwin's death, Thomas Irwin urged me to take up the notes—I had made some small pay-

ments on them. He became at last so importunate, that I told him he might as well execute his lien upon the slaves, for I could not redeem them. After several meetings between us, which caused some anger on both sides, I told him I had no means whatever of paying the notes, and he must do what he pleased with the property. He told me that he would long before then have executed the trust and sold the slaves, if the friends' meeting had not prevented it. I told him then he might place the debt in any form he pleased, and I would put no bar in his way. He then assigned the claim to William Herbert, intending him to execute the trust; but some of the friends having heard of that, prevented it. He then sent William Herbert to make a proposition to Jane Dade, that she should take a transfer of the negroes, and assume the debt, giving him a lien upon her real estate in lieu of the negroes, which she did, and thereby became indebted to him. He further says, that one of the pieces of property, for the sale of which the defendant, Hodgson, is trustee, was conveyed under the above arrangement.

Cross interrogatory 2d—State when James Irwin died—what estate he left, and what disposition was made of it after his death.

Answer to 2d cross interrogatory—He died about the year 1823, and left no property except a few articles of furniture, which he had disposed of before his death.

Cross interrogatory 3d—When did you first inform the complainant that Thomas Irwin, deceased, had assumed the payment of the debt due by Henderson; and where, and in whose possession have the exhibits A and B been since 1821, up to the institution of this suit?

Answer to 3d cross interrogatory—I informed the complainant soon after the assumption was made. The exhibits A and B have been in the possession of the complainant part of the time, and part in my own possession.

Cross interrogatory 4th—Has any part of the debt due, as by exhibit A, ever been paid to the complainant, or in any manner secured?

Answer to 4th cross interrogatory—No part has ever been paid or secured.

Cross interrogatory 5th—When did the note of Henderson & Co. (and which you state was renewed by Thomas Irwin, deceased,) first become due?

Answer to 5th—I do not recollect the exact date.

Cross interrogatory 6th—Has any part of the loans by Jane Dade to James Irwin been paid or secured, and is the sum of $680 still due?

Answer to 6th [cross] interrog.—There is no security for it except the assumption of Thomas Irwin as aforesaid; and no part of it has been paid.

Cross interrogatory 7th—Was not James Irwin & Co. indebted to Thomas Irwin, deceased, at the time you left said firm? If so, state in what amount, whether, and when and how, said debt has been liquidated or secured; and was not James Irwin indebted to said Irwin about the 20th May, 1821, and in what sum?

Answer to 7th [cross] interrog.—James Irwin & Co., when I left that concern, had a balance in Thomas Irwin's hands, as far as my memory

serves me. James Irwin's individual debts with him I do not know the amount of, except the endorsement, which was about $14 or $1,500; and I do not know of any other debt due by him.

Cross interrogatory 8th—How many slaves were conveyed by James Irwin, by the deed, for the security of Thomas Irwin, deceased, and afterwards taken by the complainant, Jane Dade? State their names, ages, and value, at the time he took them, and what disposition has been made of them.

Answer to 8th [cross] interrog.—I think there were five men: two men by the name of William, one of them at this time about 57 or 58, the other about 50; also, Daniel and Robert, about 45 each. Daniel run away about nine years ago, and has not been recovered; George, about the age of 45, he was disposed of by James Irwin, with Thomas Irwin's consent, to David Ricketts, for $420, and the money applied to the payment of so much of James Irwin's debt to bank of Alexandria, upon which Thomas Irwin was endorser. The said slaves, at the time she received them, were worth about $400 each. William Ross was sold by Jane Dade for $220, William King was sold for $180, Daniel run away, Robert is now living with her, and George was sold to Ricketts, as already stated.

Cross interrogatory 9th.—Was not all the property, which, by the deed of trust, was conveyed by James Irwin for the benefit of Thomas Irwin, taken by the complainant and retained by her?

Answer 9th—No; she did not receive all his property. She received nothing but the negroes as above stated.

Cross interrogatory 10th—Have any letters testamentary, or of administration, been taken out or granted upon the estate of James Irwin, deceased, of whom you have spoken? If so, state by whom. Did the said James Irwin leave any estate?

Answer 10th—No letters testamentary, or of administration, on the estate of James Irwin, have been granted; and he left no estate.

And further defendant saith not.

JOHN ADAM.

DISTRICT OF COLUMBIA,
County of Alexandria, to wit:

We, Adam Lynn, and Newton Keene, justices of the peace for the county aforesaid, do hereby certify that the foregoing depositions of John Hooff, Thomas ——, Jno. C. Vowell, Lewis Cole, and John Adam, were taken before us, at the time and place, and by the authority mentioned in the caption thereof; and that the deponents were severally sworn by us, and signed the said depositions in our presence, and in presence of Chris. Neale, counsel for plaintiff, and William Hodgson, one of the defendants; the other defendant, Thomas Irwin, not being present or represented by counsel.

Given under our hands and seals, this 4th day of April, 1835.

ADAM LYNN, [SEAL.]
NEWTON KEENE, [SEAL.]

Papers referred to in the foregoing depositions.

Exhibit C, referred to by Thomas Sandford.

$311 10. Received, Alexandria, 14th January, 1813, Thomas Sanford's note for the above sum, say three hundred and eleven dollars and ten cents, when paid in full.

THOMAS IRWIN.

Papers referred to by John Adam in his deposition.

ALEXANDRIA, 1*st January*, 1823.

Mr. John Adam, To Thomas Irwin, Dr.
To one year's ground-rent on Water street, - - $88 50
Received payment, 17th March, 1823.

THOMAS IRWIN.

Received, Alexandria, 20th April, 1822, of Mr. John Adam, seventy-seven dollars in full, for ground-rent, to the first day of January last.
$77 00. THOMAS IRWIN.

The affidavits of sundry persons taken at the office of Chr. Neal, in the town of Alexandria, on Monday, the 26th day of October, 1835, between the hours of 9 A. M. and 4 P. M., of that day, agreeably to notice given the above party, (a true copy whereof is hereunto annexed,) which affidavits, when taken, are to be read in evidence on behalf [of] Jane Dade, in a certain suit now depending on the chancery side of the circuit court of the District of Columbia, and county of Alexandria, wherein the said Jane Dade is complainant and Thomas Irwin, executor of Thomas Irwin, deceased, and Will. L. Hodgson are defendants.

The witnesses on behalf of the complainant appeared in person, but the taking of their depositions is, by consent of parties, (in consequence of the papers in the cause being locked up in the clerk's office,) postponed till to-morrow, at 3 o'clock, P. M.

Deposition of Hugh Smith.

Tuesday, 27th October, 1835. The affiant, Hugh Smith, being first duly qualified, cautioned, and sworn, according to law, deposeth and sayeth:

Question 1st, by complainant—Were you acquainted with the late Thomas Irwin, of Alexandria, deceased?

Answer—Yes.

Question 2d—Were you familiar with his handwriting?

Answer—I have fequently seen Mr. Irwin write.

Question 3d, by same—Look upon the signature "Thomas Irwin" on exhibit B, filed in this cause, and say if you believe it to be the genuine signature of the late Thomas Irwin, of Alexandria, deceased.

Answer—I do not deem or consider myself a competent judge of handwriting. If I was obliged to give an answer to this question, I should say that it has the appearance of Mr. Irwin's handwriting with an indifferent pen.

Question 4th—Was your opinion of the handwriting on exhibit B, ever asked before the present moment by the complainant in this cause, or by any person for her, by submitting the same first to your inspection?

Answer—No.

Question by defendant Irwin—State in what light you consider the signature signed "Thomas Irwin" and the flourish thereto on exhibit B, annexed to the bill of the complainant. Does the same appear to be the usual signature, and flourish under the same, as written and used by the said Thomas Irwin, deceased, (the father of the defendant,) in matters of business? If not, state your reasons.

Answer—Thomes Irwin wrote a free and good hand. I recollect his signature very well, but not equally so the flourish. That exhibited has the appearance contrary to such as I should suppose Mr. Irwin would make.

Question 2d—Look at the endorsement signed "Thomas Irwin" on exhibit B, annexed to the bill of the complainant, and state whether you believe from the appearance of the color of the ink, or otherwise, in the body of said writing, excluding the signature aforesaid, you believe that the said body was written before the year 1834, (eighteen hundred and thirty-four; if yea, how long before?

Answer—On examination, I cannot answer as to the time at which the writing was made. It appears to me that the filling up and the signature were not written with the same pen; and there appears from this or other cause, a little difference in the color of the ink.

Question 3d—State whether you were acquainted with the habits of business of Thomas Irwin, deceased, and how long; and whether you believe that the said Thomas Irwin would have signed any such paper as the endorsement on exhibit B, written by another person; and further, what were his habits of business as to accuracy, prudence, punctuality, and care?

Answer—Although acquainted with Mr. Irwin since the year 1796 to the time of his decease, and with his accuracy in transacting business in general, yet not sufficiently so to answer this question, further than contained in the above, I had very little business with Mr. Irwin except such as originated in bank business, at bank, or in the trifling occurrences of wharfage and small bills.

HUGH SMITH.

Sworn to before me, this 27th day of October, 1835.

NEWTON KEENE, *J. peace.*

Taken by consent, the parties by counsel being present.

WM. L. HODGSON, *for defendants.*

CRR. NEALE, *Sol'r for compl't.*

Deposition of Charles Page.

The affiant, Charles Page, being first duly qualified, cautioned and sworn, according to law, deposeth and sayeth:

Question 1st, by complainant—Were you acquainted with the late Thomas Irwin, of Alexandria, deceased?

Answer—Yes.

Question 2d—Were you familiar with his handwriting?

Answer—No.

Question 3d—Look upon the signature "Thomas Irwin" on exhibit B, filed in this cause, and say if you believe it to be the genuine signature of the late Mr. Thomas Irwin, of Alexandria, deceased.

Answer—I cannot tell.

Question 4th—Did Jane Dade, or any person for her, ever exhibit the said paper marked B to you, for your opinion touching the signature "Thomas Irwin," before the present occasion?

Answer—No.

Question by defendant—State how long you have been acquainted with the complainant, Jane Dade, and whether she has in person or by agent, ever, during your knowledge and acquaintance with her, been consulted with, or advised on, matters of business relative to said Jane Dade's interest.

Answer—Never. C. PAGE.

Taken by consent of parties.

Deposition of Elijah Knox.

The deposition, de bene esse, of Elijah Knox, of full age, taken at the office of M. King, mayor of the borough of Norfolk, in the State of Virginia, on this 8th day of May, A. D. 1839, to be read as evidence on behalf of the complainant on the hearing of an injunction now depending on the chancery side of the circuit court of the District of Columbia and county of Alexandria, wherein Jane Dade is complainant, and the executors of Thomas Irwin, deceased, and — L. Hodgson are defendants.

This deponent being first duly sworn, qualified and cautioned, deposeth and saith: That he recollects being in Mr. Thomas Irwin's store sometime in the spring of 1820 or 1821, when Mr. Adam came in and gave Mr. Irwin a paper; when the old gentleman read it he seemed a good deal vexed, and talked quite angry. When I found they would have some angry talk, I went to the counting-room door and leaned on the end of the counter. After some talk, Mr. Adam took back the paper and wrote something on it, and handed it back to Mr. Irwin; after some further talk, Mr. Irwin wrote on the paper and gave it to Mr. Adam. I did not hear it read, but from what Mr. Irwin said, it was something about a claim [of] Alexander Henderson. Mr. Irwin appeared very much displeased. When I saw Mr. Adam that day in his store, I told him I thought the old gentleman was quite wrathy; he replied that he was not vexed with him; that he had no interest in the paper, it was the business of another person. This is all I recollect of the circumstance.

Given under my hand, this 18th day of May, A. D. 1839.

his
ELIJA ⋈ KNOX.
mark.

Witness: M. KING.

COMMONWEALTH OF VIRGINIA,
Corporation of Norfolk, ss.

The undersigned, mayor of Norfolk, doth hereby certify, that the foregoing deposition of Elijah Knox was taken, de bene esse, before him, at his office aforesaid, in the corporation aforesaid, on the 8th day of May, A. D. 1839, between the hours of 6 o'clock, A. M. and 6 o'clock, P. M. of that day, in behalf of Jane Dade, in a certain injunction now depending on the chancery side of the circuit court of the District of Columbia and county of Alexandria, in which suit Jane Dade is complainant, and Thomas Irwin, executor of Thomas Irwin, deceased, and Wm. L. Hodgson are defendants.

That no notice was given the defendants, or their counsel, or attorney, of the time and place of taking the deposition aforesaid, as neither were within one hundred miles of the place of taking the said deposition. The undersigned further certifies that he is not of counsel or attorney of either of the parties, or in any manner interested in the event of the cause; and that the deponent was carefully examined, cautioned, and sworn by him to testify the truth, the whole truth; and that the testimony by him given was by the deponent subscribed after the same had been reduced to writing, which was done by the undersigned himself; and he further certifies, that the reason of the said deposition being taken is, that deponent resides more than one hundred miles from the place of trial; that he is by profession and calling a mariner, and is almost constantly on the water, and is bound on a voyage to sea before the trial of this cause in May, 1839. All which is certified, under my hand and seal of office, to the honorable judges of the circuit court of the District of Columbia, and county of Alexandria, on this 8th day of May, A. D. 1839.

[L. S.] M. KING, *Mayor*.

Defendant's depositions.

Deposition of Wm. L. Hodgson.

The affidavit of Wm. L. Hodgson, who, being duly sworn on the part of the defendant to state all that he knows touching the matters in controversy between the complainant and Thomas Irwin, jun'r, the executor of Thomas Irwin, deceased, a defendant.

I was called upon by Thomas Irwin, jr. the executor of Thomas Irwin, deceased, to obtain from the circuit court of Alexandria county, in the District of Columbia, a substitution of a trustee under the several deeds of trust from the complainant, Jane Dade, to Wm. Herbert—this was in the latter part of the summer or early in the fall of 1830. After having been so applied to, John Adam, the brother of the complainant, mentioned to me the assent of his sister, that the substitution might be made without delay, and at the November term of the court. By the request of the said Thomas Irwin, ex'or of Thomas Irwin, deceased, and the assent of John Adam, who I then considered as the agent of his sister, the complainant in this cause, I became the trustee or com-

missioner in the place of Wm. Herbert, jun'r, who was the trustee under said two deeds of trust, which were in the said case mentioned and referred to, and who was unable, at the time of said decree, to carry into effect or execute the said two deeds of trust.

The answer of Mrs. Dade was signed by her; and the said deeds of trust to Herbert, for the benefit of Thomas Irwin, deceased, and of his executor, I have filed in this case. On or about the 29th of November, 1830, I received from Thomas Irwin, executor of Thomas Irwin, deceased, and the defendant in this case, an order in his handwriting, to request payment from the complainant, Mrs. Dade, of the sum of $1,128 50, due on the 15th January, 1828, with interest semi-annually from that date; and upon non-payment to proceed to sell the trust property. I annex the order of said Thomas Irwin, executor as aforesaid, marked A. After receiving this order from the executor of Thomas Irwin, I called upon John Adam and told him that I was directed to require payment of the debt due by his sister to the said T. Irwin; and afterwards, that no difficulty might arise as to my conversation with him, I wrote a note to Mrs. Dade and another to him, which were delivered by me at his residence, the copies of which (substantially correct, as I believe, as taken at the time) are hereto annexed, marked B. After the said notices given by me to Mr. Adam of the demand for payment, or on default of payment, to sell the property of Mrs. Dade, his sister, I had frequent conversations with him on the subject, in all of which he pressed a postponement of the sale, and in the most urgent manner requested indulgence. He urged me to use any influence I possessed with the Irwin family to obtain delay for a twelvemonth. He wrote a letter to Mr. Thomas Irwin, which is among the defendant Irwin's exhibits, marked [O], which I know to be in the handwriting of the said John Adam, and the note below his P. S. is in my handwriting, and was written at his request. The facts stated in my said note are true as stated. I annex also a letter, addressed by me to Mr. Thomas Irwin, the executor of his testator, dated on the 28th December, 1830, with a P. S. or note written by Wm. H. Irwin, the last of which I know to be in the handwriting of the said Wm. H. Irwin, which said letter, marked XI, was produced by the said Thomas Irwin, and is annexed to his affidavit. I received, shortly after by mail, from Thomas Irwin, the defendant, a letter addressed to James Irwin, his brother, which I have ever since retained in my possession; the letter signed by him, dated Baltimore, 29th December, 1830, which I hereto annex, marked C, of the contents of which I believe I apprized John Adam. An arrangement was made by me with the said Jno. Adam, brother of the complainant, that the arrears of interest due upon the bonds of his sister to the defendant, Irwin, executor of Thomas Irwin, should be paid up to the 1st January, 1831, or thereabout. About the 27th January, 1831, I received of the said John Adam, on account of the interest due by Mrs. Dade upon the bonds in the possession of Irwin's executor, and secured by the said two deeds of trust, one hundred and seventeen dollars and forty-two cents in money, and afterwards an ac-

count against the estate of Thomas Irwin, deceased, for the sum of eighteen dollars, which I believe was for wharfage of some vessel, or dockage, which account was received; but after some objection on the part of Thomas Irwin, the defendant, who contended that the claim was incorrect, Mr. Adam wished me to receive the account as so much cash. I refused, but told him I would refer the matter to Mr. Irwin; and subsequently to the receipt by me of the cash payment for interest before alluded to, the said Adam informed me, by a note which I here annex, and which was written by him, that Mr. Irwin would not contest the matter. This note I annex, marked D. On or about the 9th of February, 1831, I received a note from said defendant, Irwin, dated the "9th February, 1831," and by him signed, again calling on me to enforce the trust against Mrs. Dade, which said order was revoked by one other, bearing the same date, signed by said Irwin, both of which marked E and F, (and received by me on the day aforesaid, as far as I recollect) I hereto annex. On the 20th of February, 1831, as appears by my endorsement made at the time, I received from the defendant, Irwin, the letter dated 19th February, 1831, requiring me to advertise for sale the trust property on the 20th of March, 1831, under the said trusts. I annex the paper received at the time, and in the handwriting of the defendant Irwin, marked G. The revocation of the order E, referred to above, was at the instance of said John Adam, upon the promise of fully complying with his previous arrangement as to the payment of interest immediately. In consequence of the letter from Irwin to me of 19th February, 1831, I addressed a note to John Adam, a copy of which, taken at the time and retained by me, marked H, I annex to this affidavit, and orally communicated to him the said order of sale. By his urgent solicitations, to avoid a sacrifice of his sister's property, his hopes of an increase in value of it, and promises to pay the interest, his requests to me to use any influence I might have with the family of the late Thomas Irwin, and by his individual applications to James Irwin and Wm. H. Irwin, and the regard which I found expressed by said family for Mrs. Dade, the complainant, the sale was deferred. In the interval, between the last date and September, 1834, Mr. Irwin, the defendant, complained to me of the default of Mrs. Dade, and talked to me of selling the property. In the summer of 1834 he directed me to sell, and on the 24th of September the property was advertised by me on the order of said Irwin, in the Alexandria Gazette, for sixty days; a copy of which advertisement, and the editor's receipt for the payment of publishing it, 20\frac{75}{100}$, marked I, I hereto annex as a part of this affidavit. The advertisement was regularly continued to the day of sale. On the morning of the day appointed for the sale, I was about going to see Wm. D. Nutt, at that time an auctioneer in Alexandria, to arrange some matters connected with it, when the subpœna in this case was served on me. After having received the late order of sale aforesaid in 1834, I addressed a note to Mrs. Dade, which I delivered in person at her dwelling house to her connexion, Miss Eliza Dade, who told me that Mrs. Dade was unwell, and promised to deliver it to her. After-

wards, probably the next day, John Adam, the brother of Mrs. Dade, called at my office and told me that he had seen a note addressed, as he supposed in my handwriting, to his sister, Mrs. Dade; that she was unwell, and he had not given it to her. He said he presumed he knew the contents or subject of the note. We then had a conversation fully on the matter, in which I distinctly apprised him of my order to sell and to advertise immediately. I had prepared an advertisement, in which the names of the parties and the style of the suit were mentioned, which I mentioned to Mr. Adam. Mr. Adam was pressing and anxious to obtain a postponement of the sale—I think for sixty days. He wished me to write to Mr. Irwin, and said he would write himself to Mr. Irwin. I recollect that I told him distinctly that writing to Mr. Irwin would be useless—that from my conversations with Irwin his determination was fixed as to closing the trust, and that I should proceed with the advertisement. He then requested me before advertising, to allow him time to write to Mr. Irwin and to receive an answer. This I assented to, telling Mr. Adam at the same time that I should, on a day which I then named, insert the advertisement in the Alexandria Gazette, unlesss Mr. Irwin countermanded his instructions; that I believed Mr. Irwin would not answer the letter, or give indulgence.

I allowed Mr. Adam FULL time from this application to have heard from Mr. Irwin. While waiting during said time for Mr. Irwin's answer, an application was made by Mr. Adam to me, that in case of a sale, I would allow some improvements put on one of the lots, conveyed under the deeds of trust, by one of Mrs. Dade's tenants, to be removed. Deeming that I had no authority so to do, I referred Mr. Adam to the Irwins. Subsequently I was authorized by them to allow the removal. The tenant's name was, I think, Simpson. On the day that I handed the advertisement to the printer, (which is hereto annexed,) Mr. Adam requested me to have it published in the same form with one which had been published by Colin Auld, to whom Mrs. Dade had conveyed, as trustee, by a prior deed, some of the property conveyed by her, subsequently, to Wm. Herbert, as trustee for Irwin's benefit. This I refused to do, because I thought it my duty, as trustee, to give the names of the parties, unless I received from Mrs. Dade a written request to do so, which Mr. Adam brought me, and which I hereto annex, believing the same to be in her handwriting, marked K. With this request of Mrs. Dade I complied. I annex the advertisement of Colin Auld, dated April 30th, and on the 7th July postponed, which I had in my possession sometime previously, (marked L.) On the morning of the day fixed for the sale, I was served with the subpœna in this case. I went to the clerk's office of the circuit court to see the bill of injunction, and was utterly astonished to find the ground by it assumed. I examined the exhibits A and B, and the endorsement on B. I was instantly struck with the fresh color of the ink in the bodies of the said exhibits and the said endorsement. I carefully examined them again and again, and was on each examination more fully convinced of the freshness of the ink, and that the said writings were of a very recent

date, not more than three months prior to that date, if even so long. With none of the *signatures* was I acquainted. On subsequent examination, during the taking of these affidavits, I find obvious marks of tracing, by some sharp pointed instrument about the flourish, under the signature of Thomas Irwin, in the receipt annexed to the deposition of John Adam, in this cause. So strong was my impression as to the recent writing of the exhibits (signatures included) that I either on the same day, when I first saw them, or on the next day, called upon Alexander Moore and John H. Crease, to examine the said exhibits then filed, for the purpose of ascertaining their opinions as to the color of the ink, and when they could have been written. Their affidavits are taken, and referred to. Upon examining the said exhibits (during the taking of the affidavits at this time) I have no hesitation in saying that in the bodies of A and B, the color of the ink has *very much* darkened since my first view of them, and that the color of the ink in the endorsement on B, has also darkened, though not so much. In all the conversations and interviews that I have had with John Adam, the brother of the complainant in this case, I have never heard from him, directly or indirectly, that he or Jane Dade, the complainant, or any person whomsoever, had any claim or demand, of any kind whatever, against the estate of Thomas Irwin, deceased; and more particularly did he never mention to me, in any way whatever, the claim as set forth in the bill of injunction brought by his sister, the complainant in this cause, or that Jas. Irwin & Co. had any claim against said Thomas Irwin, deceased, or his estate.

Acting as trustee, had any offset or claim been set up by John Adam as the agent of Mrs. Dade, or by Mrs. Dade, the complainant, and if I had found any contest as to the amount due by Mrs. Dade, I should not have advertised the property, but should have required the parties to have their respective rights adjudicated. Mr. Adam, the brother and agent of the complainant, never interposed any claim on her part to me, but always urged me, and I may say, implored me to obtain delays as to sales of the property aforesaid; fearing a sacrifice thereof; hoping that the value would increase, and promising to pay. The exhibits E and H, attached to the answer of the defendant, Irwin, and his affidavit, were written and signed by me and sent to Mr. Irwin. Exhibits G and K, annexed to said answer, and referred to in the affidavit of Thomas Irwin, are in the handwriting of John Adam. The exhibits I, F, M and L, annexed to the affidavit and answer of the defendant, are signed, and I believe written, by the complainant, Jane Dade.

Further the affiant saith not.

WM. LUDWELL HODGSON.

Papers referred to in the affidavit of Wm. L. Hodgson.

A.

$1,128 $\frac{50}{100}$ due 15th January, 1828, with interest semi-annually from date. I wish Mr. Hodgson to request payment of Mrs. Jane Dade,

and if not made, to proceed against the property forthwith, as the time is near at hand for settling the estate.

THOMAS IRWIN, Jr.
Executor of Thomas Irwin, deceased.

ALEXANDRIA, 29*th November*, 1830.

B.

ALEXANDRIA, *December 8th* 1830.

To Mrs. Jane Dade, Alexandria, (copy.)

Dear Madam: Mr. Thomas Irwin, on leaving town, desired me to mention to you the debt due by you to him as executor of his father, which is secured by your two deeds of trust to Wm. Herbert, esq., in whose place I have been substituted as trustee. Mr. Irwin desires me to request from you payment of the sum so secured, which, on the 15th January, 1828, was $1,128 50, and upon which interest up to this time is still due.

I regret to add that I am directed to proceed upon the deeds of trust, should payment not be made. I shall be absent from town for several days; on Monday next I shall return, and shall be glad to know if any arrangement can be made.

With very great regard, I remain, madam, yours, respectfully,

WM. L. HODGSON.

ALEXANDRIA, *December 8th*, 1830.

To John Adam, esq.,

Dear sir: Mr. Thomas Irwin, on leaving town for Baltimore, handed to me a note directing me to request of Mrs. Dade the payment of $1,128 50, due on the 15th January, 1828, with interest thereon from that date. In the event of the debt and interest thereon not being paid, Mr. Irwin directs me to proceed under the deeds of trust. The reason assigned by Mr. Irwin for this step is, that the time for settling up the estate is near at hand.

I shall leave town to-morrow, and shall return on Saturday or Sunday next, when I shall be pleased to hear from you. I enclose a note for Mrs. Dade.

Yours, respectfully,

WM. L. HODGSON.

C.

BALTIMORE, 29*th December*, 1830.

Dear James: Annexed is bill disbursements, due 20th December, 1830, $444 07, also invoice, amounting to $1,929 03, due 3d April, 1831, charged in account current to brig Delor and owners, together with my acceptance of your draft, dated 22d December, 1830, at 60 days date, favor of Jno. M. Johnson & Co. for $3,500.

I have received by this days' mail several communications touching the affairs of Mrs. Dade. One letter from Mr. Adam, imploring the

postponement of sale, saying "*it cannot be* that you, a father, would bring to poverty the children of the friends of your earliest infancy; your brothers are willing to be generous to us, your sisters will be guided by you entirely." This is strong language, but I certainly have not been, neither do I desire to be, instrumental in making them poor. I apprehend such unpleasant consequences to be the matured fruit of their own acts. Mr. Adam has made me many promises without any compliance, so that I cannot defer the sale upon proposition alone. Individually I feel willing, provided it meets the entire approbation of *all* concerned, to defer the advertisement until 1st March next, provided the whole amount of interest to 1st January, 1831, is promptly paid. Mr. A. says, "I have spoken to your brothers, James and William, who say they will be perfectly satisfied if you grant the indulgence asked by Mrs. Dade, i. e. to defer it for twelve months from 1st January, 1831. William writes that he does not see any advantage that could result from postponement, unless the interest is promptly paid up to 1st January, 1831. I feel myself compelled to have the property advertised forthwith, as I have the Orphan's court to deal with, and the law makes my duty imperative, notwithstanding the extreme unpleasantness of the case. With love to all.

Your affectionate brother,

THOMAS IRWIN, Jr.

P. S. I do not propose to reply further to the several communications now received. Please show this to Mr. Hodgson and William, &c. &c. I have not been able to make any further progress in sales, though the dealers have been with me to look and enquire.

D.

Mr. William L. Hodgson,

Sir: I have seen Mr. T. Irwin. He thinks no charge should have been made, but says he will not contest the matter. I have therefore returned you the bill for so much money, subject to his control.

Yours, respectfully,

J. ADAM.

JANUARY 31, 1831.

E.

ALEXANDRIA, *9th February*, 1831.

Mr. William L. Hodgson,

Sir: As Mrs. Dade has failed to comply with the conditions for postponement of the sale of her property, by paying all the interest due to 15th January, 1831, you will please advertise the property in to-morrow's paper.

Very respectfully, yours,

THOMAS IRWIN, Jr.

Executor of Thomas Irwin.

F.

Mr. Hodgson will please defer the advertisement until further directions.

Respectfully,

THOMAS IRWIN, Jr.

ALEXANDRIA, *February 9th*, 1831.

G.

ALEXANDRIA, 19*th February*, 1831.

William L. Hodgson, esq.,

Sir: As Mrs. Dade has failed to comply with our agreement in reference to the trust, I deem all treaty needless, and do hereby request you to advertise the property on the 20th March, 1831, to be sold in conformity with the terms of the deed, unless the whole amount of principal and interest is paid on or before that time. This being my bounded duty, all further recourse to me is needless.

Respectfully, yours,

THOMAS IRWIN, Jr.,
Executor of Thomas Irwin, deceased.

H.

Dear sir: Mr. Irwin has left with me a written order to advertise the property of Mrs. Dade on the 20*th March*, 1831, to be sold in conformity with the terms of the deed of trust, unless the whole amount of principal and interest is paid on or before that time. I suppose Mr. Irwin has advised you of this, but least he should not have done so, I advise you of his order to me, that you may avail yourself of the time afforded.

Respectfully,

WM. L. HODGSON.

To John Adam, esq. February 23d, 1831.

I.

Public sale. By virtue of two several deeds of trust recorded in the U. S. circuit court, for the county of Alexandria, Lib. O, No. 2, fol. 99, and Lib. R., No. 2, folio 62, I shall on Wednesday, the 26th day of November next, offer at public sale, for cash, a lot of ground in the town of Alexandria, beginning 57½ feet from the corner of Princess and Union streets, thence south with Union street to Conway's line, thence east with said line, and parallel to Princess street into the river Potomac, thence north with the river to the line of John Adam, thence with his line to the beginning.

Should the proceeds of such sale be insufficient for the purposes of the trust, I shall then proceed to sell, for cash:

1. A lot of ground on Water and Princess streets, 118 feet on Water street, and 136 on Princess street.

2. A lot opposite the same (1) on Princess street and an alley, 48 feet by 46 feet.

3. A lot of ground on Oronoko street, being ¼ of a square, running through the centre to Pendleton street, and opposite the late Mordicai Miller's bakehouse.

4. One-half of an undivided half square less 60 feet, on Oronoko, Royal, and Pitt streets, where the old Catholic chapel stood, and opposite Hollinsbury's late brick yard.

5. A lot of ground on Wolfe street, opposite the residence of John C. Vowell, and fronting on Wolfe and Pitt streets, ⅛ of a square.

The sale will commence at the first mentioned piece of property, and will then proceed on the premises of each lot as advertised.

Should the sale be prevented on that day, it will take place the next fair day, and be continued from day to day until finished.

WM. LUDWELL HODGSON, *Trustee.*

September 24th, 60 d.

Wm. Ludwell Hodgson, trustee, To Edgar Snowden, Dr.

1834, September 24. To advertising public sale of town property, 2½ squares, 60 days - - - - - $20 00

Received payment of J. and Wm. H. Irwin.

EDGAR SNOWDEN.

K.

To W. L. Hodgson, esq.,

Sir: I wish the advertisement of the property in trust to secure Thomas Irwin's estate in the debt assumed by me, to be published without mentioning my name. This request should have been made some days past, but my time has all been devoted to Mrs. Yeaton. I think the request presented to have the advertisement postponed at least a few days, for Thomas Irwin's answer to a letter written some days past to him, was a very reasonable one, and one which I should have supposed the most fastidious person would not refuse.

Respectfully,

J. DADE.

Deposition of John H. Crease.

The affidavit of John H. Crease, who, being sworn on the part of the defendant, Irwin, says:

Question 1—Look at the exhibits A and B, annexed to the bill of the complainant, Jane Dade, and state when you first saw them—by whom you were called upon to see them—and what were your opinions formed at the time? State fully all particulars in your knowledge.

Answer—On the 28th November, 1834, I was called upon by Wm. L. Hodgson to examine two documents, then in the clerk's office, and now exhibited, and attached to complainant's bill, marked A and B; and having been requested at the time to make a minute of my impressions upon the apparent difference between the body of the writing and the signature to the two papers, then wrote as follows.

"The filling up of both papers are evidently with different ink from the signature of James Irwin, and, [as] far as my own impression goes, should think more fresh in its appearance, as though it might be of more recent execution. With respect to the endorsement on the document marked B, I should think the signature of 'Thomas Irwin,' and the writing above the same, might have been with the same ink, and performed at or about the same time."

I have not sufficient knowledge of the writing of either James Irwin or Thomas Irwin to identify their signatures.

Question 2—Since your inspection of the said exhibits A and B, state whether you now discover any change in the color or appearance of the ink with which the bodies or superscriptions of A and B, over the signatures of James Irwin, are written?

Answer—I think the ink has darkened considerably.

Further this deponent saith not.

JOHN H. CREASE.

Taken 8th October, 1835.

Deposition of George Drinker.

George Drinker, an affiant on the part of the defendant, Irwin, being duly affirmed, affirms and says:

Question 1—State whether you were acquainted with Thomas Irwin, deceased, the father of the defendant Thomas Irwin, jr., and the testator of said Thomas Irwin, jr.; if so, how long, and where.

Answer—I have known Thomas Irwin, the father of Thomas Irwin, jr., upwards of forty years previous to his decease, in Philadelphia and Alexandria.

Question 2—State to what religious denomination you and the said Irwin, deceased, were, during said time, attached; and where.

Answer—To the society of Friends of this town.

Question 3—State whether the society of Friends in the town of Alexandria, ever instituted any examination, or made any complaint or charge against the said Thomas Irwin, deceased, or any inquiry or order as to or against his having a deed of trust upon any slaves, or buying or selling, or intending to buy or sell, any slaves from or to any person whatever.

Answer—I have no knowledge of any complaint of the nature above alluded to. Had such been the fact, I should have known it, as I had acted in the station of an overseer in said society.

And further the deponent saith not.

GEO. DRINKER.

Deposition of C. Page.

The affidavit of Charles Page, taken by the defendant, Irwin. The said Charles being duly sworn, deposes and says:

Question 1—State whether you were acquainted with Thomas Irwin, deceased, late of the town of Alexandria, the father and testator of Thomas Irwin, jun., the defendant in this cause. If yea, state how

long, and where was his residence, and also yours, during any such acquaintance?

Answer—I knew Thomas Irwin some years previous to 1804, when I became cashier of the Bank of Potomac, at which period he became my security; his residence and mine was in the town of Alexandria.

Question 2d—At what time did the Bank of Potomac go into operation, either by association or charter, and state whether the said Thomas Irwin, deceased, did, at any time prior to the year 1806, deposit notes in the said bank for collection, or transacted, through said bank, any of his business? And what banks were in the town of Alexandria up to 1806, and particularly from 1800 to 1806?

Answer—The Bank of Potomac went into operation in December, 1804, and chartered in 1811. Thomas Irwin did no business in the Bank of Potomac prior to the year 1818, in which year he opened an account in said bank; and there was no other bank.—[This affidavit is incomplete.]

Deposition of Colin Auld.

The affidavit of Colin Auld, who, being duly sworn, states upon the part of the complainant:

Question 1st—Look at the endorsement upon exhibit B, annexed to the bill of the complainant, and say in whose handwriting is the body of said endorsement; and whether the signature thereto is that of Thomas Irwin, the father and testator of the defendant, Thomas Irwin, jr.

Answer—I cannot say in whose handwriting the body of the endorsement is; and I have great doubt as to the signature being genuine of Thomas Irwin or not. The letter at the end of Thomas is not formed in the same manner as in the genuine signatures; and also, the letter commencing with Irwin is turned up to the body of the I, and not left open as in the signature of Thomas Irwin, which I have seen him frequently write.

Question 2d—How long were you acquainted with the said Thomas Irwin, deceased, the father of the defendant, Thomas Irwin, jun., his executor; and what were your means of knowledge as to his handwriting and signature?

Answer—I was acquainted with Thomas Irwin, testator of the defendant, for more than twenty-five years, and have frequently seen him write his name.

Question 3d—examine the receipt of the 20th April, 1822, signed by "Thomas Irwin," to John Adam, for $77 $\frac{00}{100}$ in full for ground rent, which said receipt is annexed to the deposition of John Adam, the brother of the complainant in this cause; and state whose is the signature thereto, and whether, to the said signature, you find any peculiar marks, by graving or marking with any tool or instrument, in or about the flourish under the signature aforesaid?

Answer—The signature to the receipt would seem to be the genuine signature of the late Thomas Irwin. There appears to be some scratch-

ing above and below the flourish connected with the said signature, with some sharp-pointed instrument. The manner in which the I is formed in the receipt of the 20th April, 1822, shows that Mr. Irwin was not always uniform in the formation of that initial letter in his signature.

Question 4th—Examine the signature to said receipt and the signature to the endorsement on exhibit B, filed with complainant's bill, and state whether you discover any similarity between them, and what?

Answer—The differences are *very trivial.* The hair stroke in the "m" is brought straight to the "a," in exhibit B, whereas in the receipt it is turned abruptly up. The o and a in Thomas, in the receipt, are blotted and filled up with ink. The flourishes connected with the signatures vary also in some degree.

Question 5th—What were the habits of business of the said Thomas Irwin, deceased, as to accuracy and exactness in business? If you know any thing of them, state your means of knowledge, and whether you believe the endorsement, alleged to have been signed by him on exhibit B, would have been signed by him.

Answer—I always understood Thomas Irwin to be very correct and well acquainted with his business, which he generally transacted himself. I had but few transactions with him, but my means of knowledge were principally derived from the information of others, and being associated with him as a bank director. I can only say that Mr. Irwin must have departed from his usual practice and caution, if he employed another person to draw such a short writing for him, and put his name to it.

Question 6th—From your said knowledge of said Thomas Irwin, deceased, and his habits of business, do you believe that he would have deferred the payment of any claim against him, acknowledged or assumed by him, as the endorsement aforesaid, on exhibit B, purports to have remained unpaid, for the length of time as mentioned on its face and the time of his death, under all the circumstances of the debt of Henderson & Co. and their credit?

And state whether you believe, from your knowledge of James Irwin & Co., and of the said James Irwin particularly, and John Adam, that they, or either of them, would have suffered the responsibility of the said Thomas Irwin, now deceased, to have remained uninforced for a period of fifteen or sixteen years.

Answer—I am of opinion that Mr. Irwin would not have deferred the payment of any just claim against him for the length of time mentioned in exhibit B, under the circumstances of the debt of A. Henderson & Co. and their credit. Both James Irwin and John Adam, so far as my knowledge extended, were not in affluent circumstances during the period mentioned, but there may have been peculiar reasons for the delay, from old friendship.

Taken, 8th October, 1835. C. AULD.

Deposition of Isaac Robbins.

In the case of Jane Dade, complainant, vs. Thomas Irwin, executor of Thomas Irwin, deceased, and Wm. L. Hodgson, trustee, now depend-

ing in the circuit court of the United States for the District of Columbia, sitting in chancery, in the county of Alexandria, the following depositions or affidavits were taken to be read upon the trial of the injunction in said suit:

Isaac Robbins, a witness on the part of the respondent, being first duly sworn, deposes and says:

Question 1st—How long have you resided in the town of Alexandria?

Answer—I have resided in the town of Alexandria thirty-two years.

Question 2d—State what banking institutions existed in the town of Alexandria prior to 1804.

Answer—The Bank of Alexandria was the only bank prior to 1804.

Question 3d—When did the Bank of Potomac go into operation?

Answer—I do not know.

Question 4th—State what your present vocation is, and what it has been for some years past.

Answer—Book-keeper in the Bank of Alexandria for eight years past.

Question 5th—State whether Thomas Irwin, deceased, the father of the defendant, Thomas Irwin, did or did not deposit notes payable to him in the Bank of Alexandria prior to 1804, and during that year, and the means of your knowledge. If yea, state if he deposited in said bank any note of Alexander Henderson & Co., and if any such note was so deposited, state the amount, date, when payable, and what became of it, whether the same was paid or not.

Answer—Thomas Irwin, father of the defendant, was in the habit of depositing his notes in the Bank of Alexandria in the year 1804, which by reference *to* the books of said bank will show. By the deposit book for1804 he deposited a note of Alexander Henderson & Co., dated 16th January, 1804, at 60 days, falling due on 16th March, 1804, for nine hundred and one dollars eighty-three cents, which appears not to have been paid at maturity by reference to said book, and there is no appearance on the books of the bank that the above note was ever renewed; and that the account of the said Thomas Irwin, deceased, on the books of the bank, shows no note of Alexander Henderson & Co. and payable to said James Irwin, save the above note. And further this deponent says not.

ISAAC ROBBINS.

Deposition of Edgar Snowden.

Edgar Snowden, an affiant on the part of the defendant, Irwin, being sworn, says:

Question 1st—State whether, after the death of Thomas Irwin, of Alexandria, Thomas Irwin, jr., his executor, caused any notice of his qualification as executor to be published in the Alexandria Gazette. State all you know on the subject.

On the 6th of February, 1827, Mr. Thomas Irwin, jr., executor of Thomas Irwin, deceased, caused a notice of his qualification as exe-

cutor to be published, which appeared in the Alexandria Gazette of that day, and was continued for one month; a copy of which publication, taken from the paper, is hereto annexed.

And further this deponent sayeth not.

EDGAR SNOWDEN.

Notice referred to by Edgar Snowden.

This is to give notice that the subscriber, of the city of Baltimore, in the State of Maryland, has obtained from the orphans' court of Alexandria county, in the District of Columbia, letters testamentary on the estate of Thomas Irwin, late of said county, deceased. All persons having claims against the said decedent are hereby warned to exhibit the same to the subscriber, passed by the orphans' court, on or before the 6th day of August next, or they may by law be excluded from all benefit to said estate; and those indebted thereto are required to make immediate payment. Given under my hand, this 6th February, 1827.

THOMAS IRWIN, Jun'r.

Deposition of Alexander Moore.

Alexander Moore, a witness on the part of the complainant, being duly sworn, states:

Question 1st—State whether you know of any note of Alexander Henderson & Co., payable to Thomas Irwin, deceased, in the year 1804. If so, state the amount, date, and time, and payment, and all you know concerning the same.

Answer—I know that Alexander Henderson & Co. gave their note for $901 83 to Thomas Irwin, at sixty days from 16th January, 1804, which said note was protested on the 20th March, in the same year, as appears among the papers filed in the said suit of Thomas Irwin or Alexander Henderson & Co. in this court, brought in March, 1804. The protest was drawn out by me as clerk for my father, who was a notary, and the said protest is on record in his notarial books.

Question 2d—What was the mercantile standing, as to credit, of Alexander Henderson & Co., in the month of January, 1804, and what was it subsequently, during the same year?

Answer—The credit of Alexander Henderson & Co., in January, 1804, as merchants, was very good; from the 8th March, in the same year, and always since, their credit was bad, having failed on that day.

Question 3d—State whether you knew Thomas Irwin, dec'd, father and testator of the defendant, Thomas Irwin, jr. If so, how long? State also whether, if you knew him, you know his handwriting and signature, and your means of knowledge as to the same.

Answer—I knew Thomas Irwin, dec'd, upwards of thirty years previous to his death. I knew his handwriting and signature well, having frequently seen him write by having business with him.

Question 4th—Look at the exhibits, marked A and B, annexed to the bill of the complainant, Jane Dade, and now here shown to you. In whose handwriting is said bill and by whom signed, and who are the

parties thereto, and the date of the affidavit? In whose handwriting is the body of A and B, and the body of the endorsement on B?

Answer—The bill is in the handwriting of Chr. Neale, and signed by him as solicitor for complainant, Jane Dade; and Thomas Irwin, ex'or of Thomas Irwin, and Wm. L. Hodgson, are defendants. The date of the affidavit is 21st November, 1834. The body of the papers, A and B, are in the handwriting of John Adam, the brother of the complainant, as also the body of the endorsement on B.

Question 5th—What have been your means of knowledge of the handwriting of Jno. Adam, the brother of the complainant, and how long?

Answer—I have seen him frequently write for upwards of twenty years past.

Question 6th—Look at the signature of "Thomas Irwin," subscribed to the endorsement on exhibit B, and say whether, from your knowledge of the handwriting and signatures of Thomas Irwin, dec'd, the father of the defendant and the defendant's testator, you believe the same to be the signature of the said Thomas Irwin, dec'd.

Answer—From my knowledge of the handwriting of Thomas Irwin, deceased, and a recent comparison thereof with the signature "Thomas Irwin" on exhibit B, I do not believe that the same is his genuine signature.

Question 7th—State where you first saw the exhibits A and B before referred to in this your affidavit, and which are annexed to complainant's bill. State fully all facts connected therewith as coming under your own knowledge and observation.

Answer—Late in November, 1834, in the clerk's office, Alexandria, Wm. L. Hodgson, one of the defendants, placed before me the said exhibits, and asked my opinion as to the signature on B; I answered as in the 6th question. I further stated that the bodies of said exhibits and the body of the endorsement on B appeared, from the paleness of the ink, to have been written but a very short time. The signatures appeared then, and still appear to be, of different ink from the bodies. I was not aware, at this time, of any suit being instituted, and gave my opinion that the writing over the signatures could not have been written more than three months. The ink in the bodies of said exhibits and the body of the endorsement on B has darkened a good deal since I first saw them.

Question 8th—State whether the complainant, Jane Dade, or John Adam, her brother, has ever, since the death of the defendant, Irwin's testator, exhibited any claim or demand against the estate of the said Thomas Irwin, deceased, before the orphans' court of Alexandria county, of which you are the register. If yea, state when, and the amount thereof, and its nature.

Answer—Neither of them ever exhibited any claim against the said estate. And further the deponent sayeth not.

A. MOORE.

Taken, 8th October, 1835.

I, Newton Keene, a justice of the peace in and for the county of Alexandria, in the District of Columbia, do hereby certify, that the affidavits of Isaac Robbins, Alexander Moore, John Crease, Colin Auld, George Drinker, Wm. L. Hodgson, Thomas Irwin, jr., and Charles Page, with the documents thereto annexed, were taken before me, at the office of Wm. L. Hodgson, in the town of Alexandria, by virtue of the annexed notice, on the 2d, 3d, 5th, 6th, 7th and 8th days of October, in the present year; that on the 2d inst. the taking of the same was continued to the 3d inst., at the same place and within the same hours, and thereafter regularly continued and adjourned, from time to time, at the same place, until the whole were taken. These affidavits are to be used upon a motion to dissolve an injunction now depending in the United States circuit court of the District of Columbia, for the county of Alexandria, wherein Jane Dade is complainant and Thomas Irwin, executor of Thomas Irwin, deceased, and Wm. L. Hodgson, are defendants. NEWTON KEENE.

Alexandria, Oct. 8th, 1835.

Deposition of George Carter.

The affidavit of George Carter, taken by consent of parties, in a suit depending in the circuit court of the United States for the county of Alexandria, wherein Jane Dade is complainant, and Thomas Irwin, jr. executor of Thomas Irwin, deceased, and Wm. L. Hodgson, are defendants.

Question 1st—Were you acquainted with the late Thomas Irwin, of the town of Alexandria, in the District of Columbia, father of the defendant, Thomas Irwin, jun'r? If so, how long, when and where?

Answer—I have known the said Thomas Irwin, deceased, the father of the defendant, from the year 1804 or 1805 until his death.

Question 2d—State whether you were in habits of business and correspondence, by writing, after your said acquaintance, with said Thomas Irwin, deceased, and how long.

Answer—I was in habits of business and correspondence with Thomas Irwin, deceased, the father of the defendant, for a number of years. I corresponded with Mr. Irwin on matters of business during that time; received many letters from him on business in answer to mine, and also letters from him as on friendship. I have seen him write his name many a time.

Question 3d—Examine the signature "Thomas Irwin," endorsed on exhibit B, annexed to the bill of the complainant, Jane Dade, in this case, and say whether you believe it to be the genuine signature of Thomas Irwin, the father of the defendant, Thomas Irwin, jr., the defendant, the same being now produced before you.

Answer—It is impossible for me to say whether he did or did not write it; but my impression is that he did not write it, because the flourish and the letters are not similar to those that he usually made or accompanied his signature. Permit me to point out the discrepancy. The strokes are not done with his usual freedom; there are irregulari-

ties, to wit: the flourish tremulous, and the termination different and irregular and more blunt.

Question 4th—State whether you have ever seen the said endorsement on exhibit B, annexed to the bill of complaint before this day. If so, when and where? and whether you believe, from the habits of business of the said Thomas Irwin, deceased, that he would have subscribed the said paper, or any one of a similar import.

Answer—I saw it in the clerk's office; and Thomas Irwin, jr., in the presence of the clerk of the court, showed it to me, and asked me to examine it, about eight or ten days ago. I was intimately acquainted with the habits and manner of business of Thomas Irwin, deceased, for many years prior to his decease, and do not believe that he would have subscribed or signed any such paper as that endorsed on exhibit B, because he was a prompt and decisive man; he always wrote assumpsits for money, obligations, assignments, &c. in the course of his business.

Question 5th—State, from your acquaintance with the said Thomas Irwin, deceased, and from conversations which you had with him subsequently to the year 1820, if you believe that he would have allowed John Adam, the brother of the complainant, to have written any assumpsit or obligation of the nature of the endorsement on exhibit B, and to which his name or signature was to be subscribed? [Not answered.]

Question 6th—State whether you have examined the receipt annexed to the deposition of John Adam, signed "Thomas Irwin," and say whether the signature thereto exhibits any appearance of marking or tracing about the letters of said signature, or about the flourish under the said signature, with any instrument whatever.

Answer—I think I discovered a trace mark under the top of the T, in Thomas Irwin's signature to exhibit B; also, I saw trace marks on the signature "Thomas Irwin," on another paper filed in the suit. I think the last mentioned paper was a receipt. The tracing must have been done with some metallic point, or a glazier's diamond, or sharp pointed spectacles.

Questions by complainant's counsel.

1st—Do you believe that the signature of "Thomas Irwin," to the receipt of which you make mention, is the genuine signature of the late Thomas Irwin?

Answer—I do.

2d—Did the late Mr. Thomas Irwin ever tell you any thing about certain slaves which were conveyed to him, or any other person, for his benefit, to secure a debt due him from the late James Irwin, and complain thereat? If so, please state particularly.

Answer—He complained that these slaves were proposed to indemnify him for a part of his claims against James Irwin for moneys advanced him; that he thought it ungenerous or illiberal to pay him in that kind of property, as he was conscientiously scrupulous in holding such kind of property, to wit—slaves; in fact, that the Friends or Qua-

kers did not hold slaves. I do not believe that he would have held slaves if they had been given to him.

GEORGE CARTER.

Taken by consent.

WM. LUDWELL HODGSON,
Attorney for defendant.
CH. NEALE,
For complainant.

Record referred to in defendant Irwin's answer, page 14, *Irwin* vs. *Henderson and others.*

DISTRICT OF COLUMBIA, to wit:

Pleas before the honorable the judges of the United States circuit court of the District of Columbia, for the county of Alexandria, the day of October, 1835.

THOMAS IRWIN, complainant,
against
ALEXANDER HENDERSON,
JAMES SAUNDERSON, and
COLIN AULD, defendants.

Be it remembered that, heretofore, to wit, on the 20th day of November, 1816, came the complainant, by Thomas Swann, Esq., his solicitor, and filed in the clerk's office of the said county a certain bill against the said defendants, which is in the words following, to wit:

Bill.

To the honorable the circuit court of the District of Columbia, for the county of Alexandria:

Humbly complaining, your orator, Thomas Irwin, sheweth unto your honors, that, in or about the year 1806, your orator obtained a judgment against Alexander Henderson, whom he prays may be made a defendant to this bill of complaint, in the circuit court of the county of Alexandria, for the sum of $901 83, with interest thereon from the 16th of May, 1804, and $10 83, and 159 lbs. of tobacco, to be settled at 13|$_{4}$ per hundred, for his costs of suit, as will appear by reference to the records of this honorable court, a short copy of which said judgment is herewith exhibited, and prayed to be taken as a part of this bill of complaint.

Your orator saith that after this judgment was obtained, that is to say, in the year 1806, the said Alexander Henderson took the benefit of the act for the relief of insolvent debtors, which oath was taken in the county of Alexandria, and the said Alexander Henderson, in consequence of taking the said oath, became discharged from confinement.

Your orator saith that he issued an execution upon his said judgment, and was unable to obtain any satisfaction of the same; and the debt still remains due and unpaid to your orator.

Your orator saith that no property, to his knowledge, was ever given up by the said Henderson for the benefit of his creditors; or if given up,

nothing has ever been obtained from the same, and your orator hath no hope of obtaining any portion of his said debt from the trustee of the said Henderson.

Your orator hath been recently informed, and he believes it to be true, that some time about the years 1810, 1811, and 1812, the said Alexander Henderson acquired moneys and property sufficient to discharge your orator's aforesaid debt; which moneys and property are now in the hands of James Saunderson, of the town of Alexandria, whom your orator prays may also be made a defendant to this bill of complaint. Your orator saith that the said Alexander Henderson is now absent from the District of Columbia, in parts beyond the seas, and your orator hath no means of subjecting the moneys and effects of the said defendant, Henderson, in the hands of the defendant, Saunderson, to the payment of your orator's said claim, but by the interposition of this honorable court in chancery, where matters of this nature are properly cognizable.

To the end, therefore, that the said defendants may true and perfect answer make to all and singular the premises as fully and particularly as if the same were here again repeated and interrogated; and that the moneys and effects of the said defendant, Henderson, in the hands of the said defendant, Saunderson, may be subjected and applied to the payment of your orator's said claim; and that this court may make such other order and decree in the premises as shall seem consistent with equity and good conscience, may it please the court to grant to your orator the United States most gracious writ of subpœna, &c.

SWANN,
For complainant.

Order of publication against Henderson.

At a court continued and held for the district and county aforesaid, the day of April, 1817, came the complainant, by his attorney, and it appearing to the satisfaction of the court that the defendant, Alexan*dria* Henderson, is not an inhabitant of the District of Columbia, on the motion of the complainant, by his attorney, it is ordered that the said defendant, Alexander Henderson, do appear here on or before the first day of the next term of this court, and enter his appearance to this suit, and answer the complainant's bill, and give security for performing the decrees of the court; and that the resident defendant, James Saunderson, do not convey, pay away, or secrete the debts by him owing to, or the estate, money or effects in his hands, belonging to the said absent defendant, Alexander Henderson, until the further order and decree of the court; and that a copy of this order be forthwith published for two months successively in the Alexandria Gazette, and another copy posted at the front door of the court house of said county. (A.)

And at a court continued and held for the district and county aforesaid, the day of November, 1817, came the complainant, by his said attorney, and the defendant, Henderson, having failed to enter his appearance, and to give security according to the former order of this

court; and the bill, as to the defendant, Saunderson, having been take for confessed, it is decreed and ordered that the defendant, Saunderson' out of the debts and effects of the defendant, Henderson, in his hands, do pay to the complainant the sum of nine hundred and one dollars and eighty-three cents, in the bill mentioned, with interest thereon from the 16th of May, 1804, till paid, and ten dollars and eighty-three cents, and the costs of this suit; unless the said defendant shall show cause to the contrary, on or before the first day of the next term.

And at a court continued and held for the district and county aforesaid, the day of April, 1818, came the complainant, by his said attorney, and the defendant, Alexander Henderson, by Robert J. Taylor, esq., his attorney, and on his motion, the interlocutory decree, made at the last term, is set aside, and the said Henderson filed his answer, and the cause is returned to the rules for further proceedings. Which answer is as follows:

Answer of defendant, Alexander Henderson.

The pleas and answer of Alexander Henderson to the bill of complaint, exhibited against him on the chancery side of the circuit court of the District of Columbia, at Alexandria, by Thomas Irwin. This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the complainant's said bill contained to be true, in such manner and form as the same are therein declared and set forth, for plea thereto saith, that heretofore, and before the complainant exhibited his bill in this honorable court, that is to say, on the 13th day of January, in the year 1806, the said complainant sued out, in due form of law, from the office of this honorable court, on the common law side thereof, a certain writ of capias ad satisfaciendum on his judgment against this defendant in the bill mentioned, for the amount by the judgment recovered, as by reference to the record of executions in this court, now remaining, will appear, which writ he delivered to the marshal of the District of Columbia, to be executed, under which said writ, the said marshal arrested and took into custody the body of this defendant in execution for the said debt; and after detaining him in custody for some time, the said marshal, with the consent and approbation, and by the order of the complainant, or his attorney, discharged this defendant from execution, so as aforesaid levied on him under the judgment, that is to say, on the 23d day of January, 1806, at the county aforesaid, and therefore this defendant doth plead the said arrest and discharge in bar to the said complainant's bill, and humbly prays the judgment of the court whether he shall be compelled to make any further or other answer thereto, and prays to be hence dismissed with his costs and charges in this behalf sustained.

2d Plea.—And the said defendant, by further protestation, not confessing or acknowledging all or any of the matters and things in the complainant's bill contained to be true, in manner and form as the same are therein declared and set forth; for further plea thereunto, by leave of the court in this behalf first had, saith, that the said judgment,

in the complainant's bill mentioned was rendered against the defendant on the day of , in the year 1805, as by record of the proceedings in relation thereto on the common law side of your honorable court, now remaining, will more fully appear; and more than ten years before the suing out of the complainant's subpœna, and filing his bill in this suit, on which said judgment a writ of ca. sa. was taken out on the 13th day of January, 1806, returnable on the , in the same year, which execution was, by the complainant, or his attorney, delivered to the marshal to be executed, and by him returned "countermanded;" and, afterwards, on the 8th day of February, 1813, a writ of fi. fa. on said judgment was, by the complainant, or his attorney, sued out of the office of this honorable court, on the common law side thereof, as by the record of executions in the office of said court now remaining, will appear; which last mentioned execution was made returnable on the , in the same year, and was delivered to the marshal by the complainant, or his attorney, to be executed, and was by him returned "no effects;" and this defendant doth aver, that he did not, at any time within ten years before the commencement of this suit, now depending before this court, ever promise or agree to come to any account for, or to pay, or in any way satisfy the complainant, any money or other thing for, or on account of, the said judgment, or any other debt or demand; all which this defendant doth aver; and therefore, this defendant doth plead the statute of limitations in bar of the complainant's recovery under his judgment aforesaid, and prays to be hence dismissed with costs.

Answer—And this defendant, in no way waiving all or any of the matters and things in his pleas aforesaid charged, but relying on the same for his defence, in the matter aforesaid, in answer to so much of the complainant's bill as he is advised is material for him to answer, answers and says: he admits that on the day of in the year 1805, the complainant did obtain a judgment, at law, against this defendant as charged in his bill, under which, on the 13th day of January, 1806, a writ of ca. sa. was sued out of the office of this court, against the body of this defendant, which was by the complainant delivered to the marshal to be executed, under which writ the body of this defendant was taken in execution by the marshal, and after being some time detained so in custody, this defendant was discharged from the same by the said marshal, by the order of the complainant or of his attorney.

This defendant, further answering, says: that more than ten years had elapsed from the date of rendering the said judgment before the institution of the suit; that only two executions were taken out on the same—that is to say, the said writ of ca. sa. under which this defendant was arrested and discharged as aforesaid, and which was by the marshal inaccurately returned "countermanded," and a writ of fi. fa., dated 8th February, 1813, which was delivered to the marshal to be executed by the complainant, and was by the marshal returned "no effects;" and this defendant never has, at any time since the said judgment was rendered, directly or indirectly acknowledged, or in any man-

ner promised to pay or satisfy the sum claimed by complainant under the said judgment, which this defendant is advised and charges is annulled and barred by the matters before stated, and is now of no obligatory force, and therefore, that he is in no shape indebted to the same. This defendant further answering, says: that on the 2d day of April, 1816, and for a long time before, this defendant, with his family, resided in the town of Alexandria, in the District of Columbia, and being called by his affairs to Europe, he did, on the 2d day of April, in that year, cause a notification of his intended departure to be inserted in the Alexandria Gazette, of which a copy is now exhibited as a part of this answer; that in the month of May, in the same year, he sailed on his said intended voyage, leaving his family and furniture in his dwelling house, in the said town, where they have since continued to reside and remain; that this defendant, when he left Alexandria, intended to return to his home at an earlier period, but his *return* was protracted by ill health; that he did return in the year 1817, and always considered the town of Alexandria as his residence and home. That he has never abandoned the same, nor intended to abandon it, since the said month of April, 1816; and the said town has always, since that time, been the residence of his family, and in it this defendant was assessed and paid a capitation tax for the years 1816 and 1817, and paid rent of his dwelling to his landlord, Lawrence Hooff, sen'r.

This defendant is therefore advised that the complainant had a full and adequate remedy at law, if he were in truth entitled to any recovery, and that this court has no jurisdiction in the matter aforesaid. This defendant further says, that he has no property or effects of any kind in the hands of the defendant, Saunderson, nor is the said James in any matter indebted to him; and that the debts and effects to which the complainant alludes, in the hands of the said James, are bona fide the property of Richard Henderson, of Glasgow, and were so at the time of the institution of this suit, and are under the control and management of his attorney in fact, Colin Auld. This defendant denies all fraud and combination, and prays to be hence dismissed with costs, &c.

County of Alexandria, to wit:

This day Alexander Henderson made oath before me, a justice of the peace for the county aforesaid, that the several matters in the foregoing pleas and answer, stated as of his own knowledge, are true; and all others he believes to be true. Given under my hand, this 25th day of March, 1818. CHRIST'R NEALE.

And at the rules held in the clerk's office of the said court, for the month of May, 1818, came the parties by their attorneys, and on their motion general commissions are awarded to take depositions, and this cause is continued.

And at the rules held in the clerk's office of the said court, for the month of March, 1819, (until which time this cause had been regularly continued,) came the parties aforesaid by their said attorneys, and gen-

eral rejoinder and issue to the first plea; general demurrer to the 2d plea; and general replication to the answer and general demurrer, and set for hearing on demurrer.

And at a court continued and held for the district and county aforesaid, the day of April, 1819, came the parties by their attorneys, and on the motion of the complainant he is permitted to make new parties defendants, and a subpœna is awarded, and amended bill filed, which is as follows:

The amended bill of Thomas Irwin, in his suit in chancery against Alexander Henderson and others.

Amended bill of Thomas Irwin.

The complainant saith, that since the institution of this suit, he has been informed, and believes it to be true, that Colin Auld has in his possession, or has subject to his power and control, moneys, effects, and property of the defendant Henderson, to a considerable amount, and which the complainant is advised are subject and liable to the payment of the claim or debt for which this complainant institutes this suit. This complainant therefore prays that the said Colin Auld may be made a defendant to this bill of complaint, and that he set forth truly and fully what moneys, effects, and property of the said defendant Henderson he hath in his hands or subject to his power or control, and that he make full answer to all other matters in the complainant's bill mentioned, as fully and particularly as if he the said Auld had been originally made a defendant to complainant's bill; and that such decree may be made against the said defendant Auld, as to this court shall seem right, may it please the court to grant to the said complainant a subpœna against the said Colin Auld, &c. SWANN, *for compl't.*

And at a court, continued and held for the district and county aforesaid, the day of November, 1819, came the parties by their attorneys, and this cause is returned to the rules for further proceedings.

At another day, to wit, at the rules held in the clerk's office of said court, for the month of March, 1821, (until which time this cause had been regularly continued,) came the complainant by his said attorney, and on his motion his bill is taken for confessed as to the defendant, Colin Auld, and set for hearing.

And at a court, continued and held for the district and county aforesaid, the day of May, 1821, came the parties, by their attorneys; and the defendants, Alexander Henderson and Colin Auld, filed their answers to the complainant's amended bill, to which answers the complainant replies generally, and issue; and the order, taking the bill for confessed as to Colin Auld, is set aside, and the cause returned to the rules for further proceedings; which answers are as follows:

To the honorable judges of the circuit court of the District of Columbia for the county of Alexandria, sitting in chancery:

Answer of Alexander Henderson to amended bill.

The separate answer of Alexander Henderson to the amended bill

of Thomas Irwin, exhibited in your honorable court against him and Colin Auld.

This defendant, saving and reserving to himself, and so forth, as expressed in his answer to the complainant's original bill, answereth and saith: that, as formerly stated, he has preserved his domicil in the town of Alexandria, regularly, since the year 1815, although absent during part of the years 1816 and 1817, in Europe, on necessary business, and detained longer than was his intention, by bad health, in England; but, that since the month of October, or prior to the sitting of your honorable court, in November, in the year 1817, he has constantly resided in the town of Alexandria, except on occasional business of a few days or weeks; that this defendant is therefore unaware of any process by subpœna issued from your honorable court, during his actual residence, that could legally stay any moneys or effects (were the ownership in him) which are held by the aforesaid Colin Auld. But this defendant states, as already stated in his answer to the complainant's original bill against him and James Sanderson, that the moneys and effects held by the said Colin Auld are the property and effects of his late brother, Richard Henderson, of Glasgow, deceased, either in his right as executor of Archibald Henderson, deceased, his father, or in his own right as due to himself, or as liable for the said Richard's engagements for this defendant.

This defendant denies all fraud and unlawful combination, and prays to be hence dismissed with his reasonable costs, &c.

ALEX. HENDERSON.

DISTRICT OF COLUMBIA,
County of Alexandria, to wit:

This day came before me, a justice of the peace for the county of Alexandria, Alexander Henderson, and made oath that the several matters and things set forth in the foregoing answer, as of his own knowledge, are true; and those as derived from the knowledge of others he believes to be true. Given under my hand, this 18th day of December, in the year 1820.

NEWTON KEENE.

Answer of Colin Auld to bill and amended bill.

To the honorable judges of the circuit court of the District of Columbia, for the county of Alexandria, sitting in chancery. The separate answer of Colin Auld to the bill and amended bill of Thomas Irwin, exhibited in your honorable court against him and Alexander Henderson.

This defendant, saving and reserving to himself all manner of advantage and benefit of exception to all uncertainties, errors and imperfections in the complainant's said bill contained, for answer thereto, or to so much thereof as he is advised is material for him to answer unto, he answereth and saith:

That he was appointed and constituted, by a power of attorney, dated in November, 1816, agent for Richard Henderson, of Glasgow,

now deceased, brother of the defendant, Alexander, a copy of which is hereunto annexed, and prayed to be received as a part of this answer; from which it appears that the said Richard, as executor of his father, Archibald Henderson, of Glasgow, and in his own right, had large claims against the said Alexander; and in particular, that he owed to his father's estate the sum of £1,345 17 3 sterling, at the time of his decease, with interest, which happened in the year ; that this defendant received, at various times, from the said Alexander, money and other property, respecting which he corresponded with the said Richard in his lifetime, and with his executors or trust-disposers, since his, the said Richard's death, but not to a sufficient amount to discharge the said sum and interest due as aforesaid. The amount and particulars of the money and property received by him, this defendant as aforesaid, he is ready to state and set forth, if directed by this honorable court. That attachments have been served on this defendant by or at the instance of Washington Bowie and Mumford Beverly, creditors, or alleged creditors of Alexander Henderson, or Alexander Henderson & Co., which, as this defendant has been informed and believes, remain undischarged and the suits not finally dismissed.

That the defendant administered on the estate of the said Archibald Henderson, in this country; and he has been advised and believes that the correct course for him now to pursue is, to carry the before mentioned money and property, when converted into money, into his administration account, as so much collected towards payment of debt and interest. That this mode of proceeding will effectually promote the ends of justice, as the said Alexander Henderson, in his schedule, gave up his share of his father's estate to his creditors, after discharging certain debts as therein specified; and that one-third part of the surplus of the said estate here and in Scotland, after discharging debts, belongs to the assignee of the said Alexander Henderson, for behoof of his creditors, of which the complainant is one.

This defendant denies all fraud and unlawful combination, and prays to be hence dismissed with his reasonable costs, &c.

DISTRICT OF COLUMBIA,

County of Alexandria, to wit:

This day came before me, a justice of the peace for the county of Alexandria, Colin Auld, and made oath, that the several matters and things set forth in the foregoing answer, as of his own knowledge, are true; and those as derived from the knowledge of others, he believes to be true. Given under my hand, this 6th day of December, in the year 1820. NEWTON KEENE.

And at another day, to wit, at the rules held in the clerk's office of the said court, for the month of May, 1823, came the parties by their attorneys, and this cause is set for hearing upon the bill, answers, depositions and exhibits.

And at another day, to wit, at a court continued and held for the district and county aforesaid, the day of May, 1823, came the parties, by their attorneys, and this cause is continued.

And at a court, continued and held for the district and county aforesaid, the day of November, 1823, came the parties, by their attorneys; and by consent, the depositions taken in the case of Beverly vs. Henderson are to be read in evidence in this cause, and the suit is continued.

At another day, to wit, at a court continued and held for the county and district aforesaid, the day of November, 1827, (until which time this cause had been regularly continued,) came the parties, by their attorneys, and the death of the complainant is suggested; and this cause is revived in the name of Thomas Irwin, jun'r, his executor.

And at a court, continued and held for the district and county aforesaid, the day of April, 1829, (until which time this cause had been regularly continued,) came the parties, by their attorneys, and the defendant, James Sanderson, filed his answer; and this cause is continued; which answer is in these words:

Answer of James Sanderson.

To the honorable the judges of the United States circuit court of the District of Columbia, for the county of Alexandria, sitting in chancery:

The separate answer of James Sanderson to the bill of complaint exhibited against him and others, by Thomas Irwin's executors.

This respondent, saving and reserving to himself all manner of advantage and benefit of exception *in the complainant's bill contained*, for answer thereto, or so much thereof as he is advised it is material for him to answer unto, he answereth and saith:

That he had very considerable and extensive transactions with Alexander Henderson, jun'r, and had occasionally funds in his hands; but the same have been withdrawn and paid over to the said Alexander Henderson, jr. many years ago, and that he verily believes the said Alexander Henderson, jr. is considerably indebted to this respondent, as will more fully appear by reference to his account, filed in the case of Richard Henderson, ex'or of Archibald Henderson, and in his own right against this respondent.

This respondent has, he believes, answered fully to all the material charges and allegations in said complainant's bill contained: he denies all fraud and combination, and prays to be hence dismissed with his reasonable costs, &c.

JAS. SANDERSON.

DISTRICT OF COLUMBIA,
County of Alexandria, to wit:

This day appeared before me, N. S. Wise, a justice of the peace for said county, James Sanderson, who made oath according to law, that the several matters and things contained in the above answer, which are stated to be of his own knowledge, are true to the best of his knowledge and belief; and such as are stated to be derived from the knowledge and information of others, he believes to be true. Given under my hand, this 3d day of April, 1839.

N. S. WISE.

And at a court, continued and held for the district and county aforesaid, the day of April, 1830, came the parties, by their attorneys; and this cause is set for hearing on the bills, answers, depositions and exhibits, and continued until the next term.

And at a court, continued and held for the district and county aforesaid, the day of April, 1831, (until which time this cause had been regularly continued,) came the parties, by their attorneys, and the death of the defendant, Sanderson, is suggested; and this cause is continued.

And at another day, to wit, at a court continued and held for the district and county aforesaid, the day of October, 1834, (until which time this cause had been regularly continued,) came the parties, by their attorneys, and the death of the defendant, Henderson, is suggested; and this cause continued.

Suit abates.

And at this day, to wit, at a court continued and held for the district and county aforesaid, the day of October, 1835, (until which time this cause had been regularly continued,) came the complainant, by his attorney, and this cause is abated by the defendant's death.

A copy—test: CASSIUS F. LEE, *C. C.*

Common law suit—Irwin against Henderson & Co.

DISTRICT OF COLUMBIA,
County of Alexandria, to wit:

Pleas before the honorable the judges of the United States circuit court of the District of Columbia, for the county of Alexandria, the day of November, 1805.

Title.

THOMAS IRWIN, plaintiff,
against
ALEXANDER HENDERSON & JOHN MCPHERSON, trading under the firm of Alexander Henderson and company, defendants. } In debt.

Be it remembered, that heretofore, to wit, at the rules held in the clerk's office of said court, for the month of June, 1804, came the plaintiff, by Thomas Swann, esq., his attorney, and filed then a certain bill against the said defendants, which is in the words following:

Declaration.

DISTRICT OF COLUMBIA,
County of Alexandria, to wit:

Thomas Irwin complains of Alexander Henderson and John McPherson, trading under the firm of Alexander Henderson and company, in custody, &c., of a plea that they render unto him the sum of nine hundred and one dollars and eighty-three cents, which to him they owe and from him unjustly detain; for that, whereas the said defendants, on

the 16th day of January, in the year of our Lord 1804, at the county aforesaid, by their certain note in writing, with their proper hands and names thereto subscribed, did promise to pay to the said plaintiff, sixty days after the date of the said note, the said sum of nine hundred and one dollars and eighty-three cents, for value received, negotiable at the Bank of Alexandria. Nevertheless, the said defendants, although often required, the said sum of money to the said plaintiff have not paid, but the same to him to pay have altogether refused, and still do refuse, to the damage of the said plaintiff. Therefore he brings suit, &c.

SWANN, *for plff.*

J. Doe, } Pledges of, &c.
R. Roe. }

And at the rules held in the clerk's office of the said court, for the month of July, in the same year, came the plaintiff, by his attorney, and the defendant having been arrested, and not appearing, on motion of the plaintiff, it is ordered that judgment be entered for the plaintiff against the said defendants, for the debt in the declaration mentioned, unless the said defendants shall appear and plead to issue at the next rules.

Plea.

At another day, to wit, at the rules held in the clerk's office of said court, for the month of August, 1805, came the plaintiff, by his said attorney, and the defendants, by Robert J. Taylor, esq., their attorney, and defend the wrong and injury, when, &c., and say that they owe nothing of the debt in the declaration supposed, in manner and form as the plaintiff against them hath complained, and of this they put themselves upon the country, and the plaintiff likewise; and the trial of the issue is deferred until the next term.

And now here, at this day, to wit, at a court continued and held for the district and county aforesaid, the day of November, 1805, came the parties aforesaid, by their attorneys, and thereupon the defendants relinquished their former plea, and confess the plaintiff's action. Therefore, it is considered by the court that the plaintiff recover against the defendants the sum of $901 83, with interest from the 16th of March, 1804, till paid, and also his costs by him about this suit in his behalf expended. And the said defendant, in mercy, &c.

Plaintiff's costs, $10 83.

Alexandria, *January 16th*, 1804.

$901 83. Sixty days after date, we promise to pay to the order of Mr. Thomas Irwin, nine hundred and one dollars eighty-three cents, value received, negotiable at the Bank of Alexandria.

ALEXANDER HENDERSON & Co.

Endorsed: Thomas Irwin.

Note, and protest.

Know all men, that I, Cleon. Moore, notary public, for the town and county of Alexandria, in the District of Columbia, residing therein, and

by law duly admitted and sworn, at the request of the president and directors of the Bank of Alexandria, on the twentieth day of March, one thousand eight hundred and four, at the counting-room of the said Alexander Henderson & Co., in Alexandria, (none of the parties of that firm being within,) have demanded of James Towers, a clerk there, payment of the note, (of which the above is a copy,) which he did not pay, owing to present embarrassments, as he said.

Wherefore, I, the said notary, at the request aforesaid, do hereby protest against the drawers of the said note for the payment thereof.

Dated at Alexandria, the 20th day of March, one thousand eight hundred and four.

CLEON. MOORE, [SEAL.]
Notary public.

A copy—test:

CASSIUS F. LEE, *C. C.*

Chancery suit—Irwin's executors against Dade.

DISTRICT OF COLUMBIA,
Alexandria County, to wit:

THOMAS IRWIN, executor, complainant,
against
JANE DADE, defendant.

Decree.

Be it remembered, that heretofore, to wit, at a court continued and held for the district and county aforesaid, the 27th day of November, 1830, came the complainant, by William L. Hodgson, esq., his solicitor, and filed his bill; and the defendant, in her proper person, appeared, and filed her answer; and this cause having been docketed and set for hearing, by consent of parties, upon the bill and answer, and the papers in the said cause having, by like consent, been submitted to the court, upon consideration thereof, it is, this 29th day of November, 1830, adjudged, ordered, and decreed by the court, and the court doth hereby adjudge, order, and decree, that Wm. L. Hodgson be, and he is hereby substituted in the place and stead of the said William Herbert, as trustee for the sale of the property in the bill mentioned; and that the said Wm. L. Hodgson be, and he is hereby authorised and empowered to execute and carry into effect the terms and provisions of the said deed of trust in the bill mentioned, as fully and effectually to all intents and purposes as if the said property, in the said deed mentioned, had been originally conveyed to him as trustee by the said Jane Dade; and that he proceed to execute the said trust according to the terms of the said deed; provided, the said William L. Hodgson shall first give bond to the United States, with good surety, to be approved by this court, or one of the judges thereof, in the penalty of three thousand dollars, conditioned well and truly to execute the trust reposed in him by this decree, and by any other decree which this court may hereafter pronounce in this cause.

Bill.

To the honorable the judges of the United States circuit court, sitting in chancery:

Humbly complaining, sheweth unto your honors, your orator, Thomas Irwin, jun'r, executor of Thomas Irwin, dec'd, that during the life time of your orator's testator, the said Thomas Irwin, dec'd, one Jane Dade, of the town of Alexandria, who your orator prays may be made a defendant hereto, being indebted to the said Thomas Irwin, dec'd, in the sum of $917 $\frac{85}{100}$, gave her three bonds, bearing date the 15th day of July, 1824, for the sum of three hundred and five dollars and eighty-six cents each, payable in 12, 18 and 24 months, with interest on each of the said sums of money, from the date of the said bonds, and payable half-yearly to the said Thomas Irwin; and the said Jane, intending to secure the punctual payment of the said bonds and the interest thereon as aforesaid, did, on the said 15th day of July, 1824, execute and deliver to one Wm. Herbert, of the town of Alexandria, a deed of bargain and sale in trust, by which she conveyed to the said Herbert, his heirs and assigns, for the purpose aforesaid, "a certain lot or parcel of ground, situated on the east side of Union street, and to the southward of Princess street, in the said town of Alexandria, and bounded as follows, to wit: beginning fifty-seven and a half feet from the corner of Princess and Union streets, and running south with Union street to Conway's line; thence east with said line and parallel to Princess street, into the river Potomac; thence north with the said river to the line of John Adam; thence west with his line to the beginning." And by the said deed it became the duty of the said Herbert, in case the said Jane Dade should make default in the payment of either of the said sums of money as they became due, or of the interest on them half-yearly, at the request of the said Thomas Irwin, dec'd, or his representatives, to sell the said property at public auction, for cash, after giving sixty days' notice in one of the Alexandria papers, of the time and place of sale; and after deducting expenses, to pay to the said Thomas Irwin the amount of the said bonds and interest thereon, or so much thereof as may then be due and unpaid; and the balance, if any, to pay to the said Jane Dade, or her legal representatives. Your orator further states that the said Thomas Irwin departed this life sometime in the year 1827, having first made and published his last will and testament, which was duly proved and admitted to record in the orphans' court for the county of Alexandria. By the said will your orator and his brothers, James and Wm. Irwin, were declared executors, but your orator has alone undertaken the execution of the said will; the said James Irwin having declined, and the said William H. Irwin being yet a minor and under age. That on the first day of October, 1828, the said debt and interest remained unpaid, and amounted to the sum of eleven hundred and twenty-eight dollars, with interest thereon from the 15th day of January, 1828. That for the purpose of further securing the payment of the said last mentioned sum of money, and the interest

then due and become due thereon, the said Jane Dade did, on the 15th January, 1828, execute and deliver to the said Wm. Herbert, his heirs and assigns, a deed of bargain and sale in trust, containing the following property: "One house and lot, corner of Fairfax and Queen "streets, twenty feet on Fairfax street, and running to the centre of the "square; the lot opposite John Vowell's present residence, fronting on "both streets, one-eighth of a square; one lot on Water and Princess "streets, one hundred and eighteen feet on Water street, and on Prin-"cess, one hundred and thirty-six; one lot opposite the same, on Prin-"cess street, and an alley forty-eight feet by forty-six; one lot on Oro-"noko street, one-fourth of a square, running through the centre to "Pendleton street and opposite Mordecai Miller's bake-house; one-half "of an undivided half square, less sixty feet, on Oronoko, Royal and "Pitt streets, where the old Catholic chapel stood, and opposite Hol-"lingsbury's brick-yard; the said property being subject to the pay-"ment of a debt of eight hundred and fifty dollars due the Banks of "Potomac and Alexandria"—that in case the said Jane Dade should "fail to pay the said Thomas Irwin, jun'r, executor as aforesaid, any bond or note with any interest that may be due thereon, when he shall demand the payment of the same, whether given to his testator or to himself"—that the said Wm. Herbert, jr., as trustee, *shall* proceed to sell the same for cash, or credit, as the parties concerned may direct, having first given sixty days' notice of the time and place of sale in one of the Alexandria newspapers; and after deducting all reasonable expenses and charges attending the sale, shall, out of the proceeds of sale, pay whatever sum of money may be due to the said Thomas Irwin, jr., either of principal or interest, and the balance, if any, to the said Jane Dade. Your orator charges that the said Jane Dade is indebted to him as the executor of the said Thomas Irwin, in the said sum of eleven hundred and twenty-eight dollars, with interest thereon, from the 15th day of January, 1828, the payment of which sum of money and the interest thereon as aforesaid, was intended to be secured and is secured, by the two deeds described and mentioned herein; and that the said Wm. Herbert, for a length of time past, has been a lunatic and of insane mind, and still continues so to be, and is totally disqualified from attending to business of any kind, and is particularly incompetent to execute the trusts aforesaid. But so it is, that by reason of the inability of the said Jane Dade to pay the said debt, and mental derangement and incompetency of the said William Herbert to execute the trusts aforesaid, your orator is unable to procure the payment of the said debt and interests, and the due execution of the said trusts, according to the provisions therein contained and expressed, unless by the intervention of a court of equity, in substituting a trustee in the place of the said William Herbert, or in decreeing a sale of the said property, conveyed by the said Jane Dade, in the said deeds, to the said Herbert, for the payment of the said debt and interest. In tender consideration of the premises, and inasmuch as your orator is remediless in and by the strict rules of the common law, and can only obtain relief in a court of equi-

ty, where matters of this kind are properly cognizable; to the end therefore that the said Jane Dade may full, true, and perfect answer make to each and all of the allegations in this bill contained, as fully and particularly as if each matter and thing herein stated and alleged was made the subject of a special interrogatory, and that the court may appoint a guardian, ad litem, to the said Wm. Herbert to defend this suit; and that the said property may be decreed to be sold by a commissioner to be appointed by the court, or that a trustee may be named and substituted by the court in the place of the said William Herbert, and for such other and further relief as to the court may seem just, may it please your honors to grant to your orator the United States most gracious writ of subpœna, to be directed to the defendant, &c.

WM. LUDWELL HODGSON,
Sol. for complainant.

Answer.

The answer of Jane Dade to the bill of complaint, exhibited against her by Thomas Irwin, jr., executor of Thomas Irwin, dec'd, in the circuit court of the District of Columbia, sitting in chancery, at Alexandria.

This defendant, waiving all exception to the complainant's bill, admits all the allegations and statements therein contained, and particularly that she is indebted to the said Thomas Irwin, jr., executor of Thomas Irwin, dec'd, in the sum of eleven hundred and twenty-eight dollars, with interest thereon from the 15th day of January, 1828, as in the said bill charged. That she did execute the two deeds of trust in the bill mentioned, at the time, and in the manner and for the purposes alleged, to the said Wm. Herbert. She admits the insanity of the said Wm. Herbert, to whom she executed the said deeds, and that he is incapable of carrying into effect the provisions thereof; and does hereby consent that your honorable court may forthwith appoint a guardian, ad litem, to the said Wm. Herbert, and decree a sale of the said property to be made for the payment of the said sum of money and of the interest now due and accruing thereon; and a trustee may be substituted by the court in place of the said Herbert, or a commissioner appointed to execute the decree of the court.

JANE DADE.

Alexandria, Nov. 9, 1830.

And at a court, continued and held for the district and county aforesaid, the 9th day of June, 1842, came the complainant, by Thomas Semmes, esq., his solicitor, and the death of the defendant, William L. Hodgson, is suggested; and this cause is continued.

Decree.

And at a court continued and held for the district and county aforesaid, the 16th day of June, 1842, came the complainant, by his said attorney, and the death of William L. Hodgson, (who had been, by a

decree of the court, heretofore rendered in this case, made and substituted in the place and stead of Wm. Herbert, as trustee, to sell the property in the bill mentioned, the said Wm. Herbert having been the trustee to make such sale, &c., by certain deeds in the bill mentioned,) having been suggested to the court on the record, it is now, by the court, here ordered, adjudged, and decreed, that Thomas Semmes be, and he is hereby substituted in the place and stead of Wm. L. Hodgson as trustee, to make sale of the property in the bill mentioned, and that the said Thomas Semmes be, and he is hereby authorized and empowered to execute and carry into effect the terms and provisions of the said deeds of trust in the bill mentioned, as fully and effectually, to all intents and purposes, as if the said property in the said deeds mentioned had been originally conveyed to him, the said Thomas Semmes, as trustee, by the said Jane Dade; and that he proceed to execute the terms of the said deeds; provided, the said Thomas Semmes shall first give bond to the United States, with good surety, to be approved by this court, or one of the judges thereof, in the penalty of three thousand dollars, conditioned well and truly to execute the trusts reposed in him by this decree, and by any other decree which the court may hereafter pronounce in this cause.

Bond—Appeal bond.

Know all men by these presents, that we, Jane Dade, and Nathaniel Carusi, and James Dempsey, are held and firmly bound unto Thomas Irwin, executor of Thomas Irwin, deceased, in the full and just sum of eight hundred dollars, to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this 11th day of June, 1842. Whereas, at a United States circuit court of the District of Columbia, continued and held for the county of Alexandria, the 9th day of June, 1842, in the suit of Jane Dade against Thomas Irwin, executor of Thomas Irwin, deceased, and others, it was by the said court decreed and ordered, that the complainant's bill be dismissed with costs; from which decree the complainant prayed and obtained an appeal to the Supreme Court of the United States.

Now the condition of the above obligation is such, that if the said Jane Dade shall prosecute her said appeal, and pay all costs and damages which may be awarded against her, in case she shall fail therein, then the above obligation to be void, otherwise to remain in full force and virtue.

JANE DADE, [SEAL.]
NATHANIEL CARUSI, [SEAL.]
JAMES DEMPSEY. [SEAL.]

Sealed and delivered in presence of
FR. MASTERSON,
JOHN T. REERDEN.

Approved: W. CRANCH.

DISTRICT OF COLUMBIA,
County of Alexandria, to wit:

I, Cassius F. Lee, clerk of the United States circuit court of the District of Columbia, for the county of Alexandria, hereby certify, that the foregoing is a true transcript of the record of proceedings in the suit lately depending in said court, wherein Jane Dade was complainant, and Thomas Irwin, executor of Thomas Irwin, deceased, and William L. Hodgson, were defendants.

[L. S.] In testimony whereof, I hereto subscribe my name, and affix the seal of the said court, this 16th day of December, 1842.

CASSIUS F. LEE, *C. C.*

No. 46.

Alexander Henderson & Co., account with Thomas Irwin, deceased.

Alexander Henderson & Co. To Thomas Irwin, Dr.

1803.				
3d month,	11th	For four pair of traces		$1 50
4th "	2d	2 coils cordage, 201 lbs, 15 c.		30 15
" "	"	1 quire paper		25
" "	4th	1 garden line		29
" "	6th	850 lbs. cordage and spun yarn, 15 c.		127 50
" "	"	12 lbs. sewing twine, 50 c.		6 00
" "	"	7 6/16 marling, 33⅓ c.		2 46
" "	"	2 log lines, 50 c.		1 00
" "	"	3½ lbs. lead line, 33⅓ c.		1 17
" "	"	½ M. pump tacks		50
" "	"	100 clapper nails		10
" "	"	18 lbs. nails		3 00
" "	"	10 lbs. spikes and nails, 15 c.		1 50
" "	"	3 doz. sail needles		1 25
" "	"	4 palm irons		25
" "	"	1 boat hook		33
" "	"	1 adze		83
" "	"	10¾ lbs. hand lead, 12½ c.		1 34
5th "	19th	1 keg white lead		4 67
" "	20th	2 " " 28 lbs. each, 28 c.		9 33
7th "	22d	2 gallons oil, 84 c.		1 68
" "	"	20 lbs. Spanish brown, 6 c.		1 20
" "	"	2 lbs. nails		30
" "	23d	33⅓ lbs. spun yarn, 15 c.		5 02½
" "	"	¼ lb. nails, 4 c.; 25, 1 keg w. lead $4 67		4 71
" "	28th	6/16 twine, 19 c., 4 lbs. spikes, 60 c.		79
" "	29th	3 lbs. nails		50
				$207 62½
8th "	2d	54½ lbs. cordage, 15 c.		8 17½
" "	"	43 lbs. " 15 c.		6 45
" "	4th	200 small nails		20
" "	"	1,173 lbs. cable, 15 c.		175 95
" "	"	1 keg yellow paint, 28 lbs.		4 50
" "	"	14 lbs. white paint		2 42
" "	"	4 lbs. lamp black		1 00
" "	"	1 doz. sail needles		42
" "	"	2 marling needles		8
" "	"	2 gallons lamp oil, 84 c.		1 68
" "	5th	37 lbs. cordage		5 55
" "	30th	1 bbl. tar		4 50
" "	"	2 lbs. lamp black, 25 c.		50
9th "	3d	354 lbs. cordage and spun yarn, 15 c.		53 10

ACCOUNT—Continued.

1803.				
9th month, 3d			24½ lbs. deep sea line, 33⅓ c.	$8 08
"	"	"	19 lbs. deep sea lead, 12½ c.	2 37½
"	"	"	6 lbs. twine, $3; 2 brooms, 20 c.	3 20
"	"	"	9 lbs. nails	1 35
"	"	"	7 lbs. nails	1 16
"	"	"	½ M. pump tacks	42
"	"	"	½ clapper nails	50
"	"	"	300 nails, 25 c.; 5 blocks, $2 34	2 59
"	"	"	4 blocks, 84 c.; 5 blocks, $1 05	1 89
"	"	"	1 shovel	1 00
"	"	"	2½ gallons lamp oil, 84 c.	2 10
"	"	30th	3½ lbs. sewing twine, 50 c.	1 75
"	"	"	12 welded thimbles	2 50
"	"	"	8 lbs. marling, 33⅓ c.	2 67
"	"	"	10 lbs. white line 33⅓ c.	3 33
"	"	"	34½ lbs. spun yarn, 15 c.	5 17½
"	"	"	44½ lbs. cordage, 15 c.	6 67½
"	"	"	157 lbs. bolt rope, 16 c.	25 12
10th	"	11th	176 lbs. cordage, 15 c.	26 40
"	"	"	14 lbs. spikes, 15 c.	2 10
"	"	22d	607 lbs. cordage, 15 c.	91 05
"	"	"	27 lbs. nails	4 50
"	"	"	½ M. nails	50
"	"	"	Cash paid drayage	12½
"	"	24th	264 lbs. cordage, 15 c.	39 60
"	"	"	Cash paid drayage	12½
"	"	31st	2 bbls. tar	8 50
"	"	"	28 lbs. white lead	4 67
"	"	"	1 lb. spikes	15
"	"	"	Cash paid 1 gal. paint oil	1 50
11th	"	1st	4 lbs. Hambro line	80
"	"	"	½ lb. nails	7½
"	"	3d	35 lbs. spun yarn	5 32½
"	"	4th	143 lbs. cordage, 15 c.	21 45
"	"	"	16½ lbs. cordage, 15 c.	2 47½
"	"	7th	1 paint brush	21
"	"	"	2 brooms	20
"	"	10th	200 small nails	20
"	"	12th	8½ lbs. spun yarn, 15 c.	1 27½
"	"	14th	1 lb. nails	17
"	"	15th	9 lbs. cordage, 15 c.	1 35
"	"	"	35 lbs. spun yarn	5 25
"	"	17th	300 small nails	30
"	"	"	40½ lbs. cordage	6 07½
"	"	18th	$1\frac{2}{16}$ spikes	17
"	"	"	4 lbs. tallow	67
"	"	"	$3\frac{6}{16}$ tarred Hambro line	67½

ACCOUNT—Continued.

1803.			
11th mo.,	19th	74 lbs. cordage, 15 c. - - -	$11 10
" "	21st	½ lb. nails - - - -	8
" "	"	27 lbs. tallow - - - -	4 50
" "	22d	57½ lbs. bolt rope, 16 c. - -	9 20
" "	"	7 lbs. bonnet line, 33⅓ c. - -	2 33
" "	24th	32½ lbs. cordage, 15 c. - -	4 87½
" "	"	21⅞ lbs. bolt rope, 16 c. - -	3 44
" "	"	2 lbs. spun yarn, 15 c. - -	30
" "	"	6 lbs. cordage, 15 c. - - -	90
" "	"	52 lbs. cordage, 15 c. - - -	7 80
" "	26th	6¼ lbs. spun yarn, 15 c. - -	94
" "	"	46 lbs. cordage, 15 c. - - -	6 90
" "	"	3½ lbs. " 15 c. - - -	52½
" "	28th	77 lbs. " 15 c. - - -	11 55
" "	29th	2½ lbs. spun yarn, 15 c. - -	37½
12th "	2d	18¼ cordage, 15 c. - - -	2 74
" "	"	1 bucket - - - -	75
" "	"	5 lbs. nails - - - -	84
" "	"	13 lbs. twine, 50 c. - - -	6 50
" "	"	2 doz. sail needles - - -	58
" "	"	210 nails - - - -	20
" "	"	2 gallons lamp oil, 84 c. - -	1 68
" "	3d	35 day's dockage sch. Elizabeth -	23 33
" "	"	wharfage sch. Eliz. cargo - -	15 24
1804.			
1st month,	11th	21 lbs. cordage, 15 c. - -	3 15
" "	"	1 hammer - - - -	58
" "	"	100 nails - - - -	10
" "	16th	Wharfage on 600 bushel's salt landed	2 40
" "	"	For discount, added to a note which they gave me this day, at 60 days, for amount of my account - -	9 00
			$901 83

A copy—Test.

CASSIUS F. LEE, *C. C.*

PLAN OF JEFFERSONVILLE.

Explanation.

Market Street is 66 feet wide. Water Street 66 feet, and runs from the beginning marked B N 42° East, 150 poles. All the Streets that run up from the River are 66 feet wide. All the regular lots on the range of the River are 82½ feet by 201 feet, except the lots Nos. 1 and 36 — they are 82 by 201. The diagonal Streets are 33 feet wide. The regular lots of the Squares are 165 feet by 148½, except the corners, which have 15 feet diagonally cut off them. To the establishing a certain corner to the Boundary of the Town. Said corner lies from the S.E. corner of Lot No. 1 marked thus ⊙, that Capt. Patterson's Stone House in Louisville, the Patch Chimney - stands S 50 W. from said corner.

Reference. (out of Record)

The line marked thus ——— represents the Water edge on the 13th day of May 1840 as by measurements made, 76 feet at Front Street, 133 feet at First Street, 98 feet at Locust Street and 35 feet at East Boundary

Edmund F. Lee
J. W. Hemming } Surveyors.

Scale. 10 poles to an Inch

(2)

HEALD Tract

North Branch

North 841 rods

This was I' last Wm Wes cut to Elm

Deduct 50 Kinley's chopping

16000 acres

Estimated to contain from 70 to 80 Millions superior pine timber

Here we saw Hell Hemlock good timber

here we saw Good timber

Hard Wood ridge

South 900 rods

Z

E. by S.

W

E

S

Township N. 2. 2d Range in Bingham's Kennebec Purchase

AUSTIN stream

mill

First bound W. 615½ rods

M

South Branch

camp C

West 220

S. 2 3R.

W. 247 rods

S 204 Rods

Hard Wood ridge

there we saw good timber 9 to 16 trees pr acre as we judged

here we saw good timber

A hard wood

Hard Wood

West 1187 Rods

L

K

Mill

COBURN Tract

South 660 Rods

North 1268 rods to the first bound's

This part Mr Luther said he had been over several times and it will average 4m. to acre

W. 386 rods

Where I have said good timber, I had reference to pine and no other

J. H. Haskins

47 Union St.

EXTRACT FROM THE FOREIGN DISCOUNT BOOK NO. 1, OF THE BANK OF AUGUSTA, AT FOLIO 57.

BILLS AND NOTES DISCOUNTED, SENT BANK OF CHARLESTON FOR COLLECTION.

(3) 331

							January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.				
1837.																						
January 5,	H. Holcombe,	his bill,	S. H. Peck,	Holcombe, Peck & Co., – – 120	January 5,	45 d'st,	–	19	–	–	–	–	–	–	–	–	–	–	– – – – –	$ 2,500 00	$23 82	$2,476 18	February 24.
" 6,	S. Clark,	" "	R. F. Poe, Cashier,	A. Y. Walton, – – – 121	" 6,	1 d'st,	10	–	–	–	–	–	–	–	–	–	–	–	– – – – –	1,345 87		1,345 87	January 17.
																				3,845 87	23 82	3,822 05	
" 11,	W. S. Dewar,	" "	P. Bermock,	McNicol & Davidson, – – – 122	" 12.	60 d'st,	–	–	13	–	–	–	–	–	–	–	–	–	– – – – –	10,000 00	124 44	9,875 56	March 20.
" 17,	P. Fitzsimons,	" "	W. A. Kain, Ass't Cashier,	John Fisher, – – – – 123	" 17,	30 d'st,	–	16	–	–	–	–	–	–	–	–	–	–	– – – – –	5,000 00	33 06	4,966 94	February 23.
" 23,	Wm. Melrose,	H. Hayes & Co.,	Fort, Hamilton & Co.,	Robt. W. Fort, – – – 124	" "	60 d'st,	–	–	17	–	–	–	–	–	–	–	–	–	– – – – –	10,000 00			March 20,
" "	Jos. Cumming, Aug.,	E. P. Butts,	Jos. Cumming, Ag't,	John Fraser & Co., – – 125	" 19,	"	–	–	22	–	–	–	–	–	–	–	–	–	– – – – –	14,974 26			March 29.
" 27,	Thomas Davis,	his bill,	Joseph Davis,	James Adger & Co., – – 126	" 27,	30 d'st,	–	26	–	–	–	–	–	–	–	–	–	–	– – – – –	5,000 00	33 06	4,966 94	March 4.
February 6,	Holcombe, Peck & Co.,	their bill,	R. F. Poe, Cashier,	Holcombe, Peck & Co., – 127	February 6,	sight,	–	9	–	–	–	–	–	–	–	–	–	–	– – – – –	40,000 00		40,000 00	February 13.
" 11,	J. McKenzie,	his bill,	A. J. Miller,	W. S. Dewar, – – – 128	" 13,	60 d'st,	–	–	–	14	–	–	–	–	–	–	–	–	– – – – –	1,190 00	14 82	1,175 18	April 19.
																				41,190 00	14 82	41,175 18	
" 13,	William Melrose, Ag't,	H. Hays & Co.,	Fort, Hamilton & Co.,	Ker, Boyce & Co., – – 129	" 7,	60 d'st,	–	–	–	7	–	–	–	–	–	–	–	–	– – – – –	7,000 00			April 14.
" 14,	D. Timberlake,	his bill,		B. R. Smith, – – – 130	" 14,	90 d'st,	–	–	–	–	16	–	–	–	–	–	–	–	entered 10 July, –	5,000 00	93 33	4,906 67	returned.
" 20,	R. F. Poe, Cashier,	J. W. Wilde, Cashier,	R. F. Poe, Cashier,	Cashier Bank Charleston, – 131	" 20,	"	–	–	1	–	–	–	–	–	–	–	–	–	– – – – –	7,172 33			March 4.
" 27,	Christopher Low,	his bill,		James Adger & Co., – – 132	" 27,	15 d'st,	–	–	14	–	–	–	–	–	–	–	–	–	– – – – –	4,500 00	16 52	4,483 48	March 20.
March 7,	D. Timberlake,	" "	W. A. Kain, Ass't Cashier,	B. R. Smith, – – – 133	March 7,	60 d'st,	–	–	–	–	6	–	–	–	–	–	–	–	– – – – –	5,000 00	62 22	4,937 78	substituted by $151.
" 8,	do.	" "	do.	do. – – – 134	" 8,	60 d'st,	–	–	–	–	7	–	–	–	–	–	–	–	– – – – –	3,000 00	37 33	2,962 67	substituted by $151.
																				8,000 00	99 55	7,900 45	
" 13,	R. F. Poe, Cashier,	Branch Bank Darien, Sav.,	Jos. Cumming, Ag't,	Planters' and Mechanics' Bank, – 135			–	–	20	–	–	–	–	–	–	–	–	–	– – – – –	4,050 24			March 20.
" 15,	P. Bernoch,	his bill,		Holcombe, Peck & Co., – 136	" 15.	30 d'st,	–	–	–	14	–	–	–	–	–	–	–	–	charged 10 May, paid 3 June,	2,000 00	13 22	1,986 78	returned.
" "	do.	do.		do. – – – 137	" 15,	60 d'st,	–	–	–	–	14	–	–	–	–	–	–	–	paid 3 June, – –	2,000 00	24 89	1,975 11	returned.
" "	D. Timberlake,	Branch Bank Darien, Sav.,	W. A Kain, Ass't Cashier,	B. R. Smith, – – – 138	" 18,	60 d'st,	–	–	–	–	19	–	–	–	–	–	–	–	entered 10 July, – –	5,000 00	64 17	4,935 83	returned.
																				9,000 00	102 28	8,897 72	
" 20,	R. F. Poe, Cashier,	J. W. Wilde, Cashier,	Check, 551,	Bank of Charleston, – – 139	" 20,	"	–	–	25	–	–	–	–	–	–	–	–	–	– – – – –	3,000 00			
" "	do.	do.	" 552,	do. – – – 140	" "	"	–	–	27	–	–	–	–	–	–	–	–	–	– – – – –	9,166 94			March 25.
" "	do.	R. Walton,	" 114,	do. – – – 141	" "	"	–	–	–	7	–	–	–	–	–	–	–	–	– – – – –	10,000 00			March 29.
" "	William Melrose, Ag't,	Hamilton H. & Co.,	Fort, Hamilton & Co.,	R. W. Fort, – – – 142	" 15,	60 d'st,	–	–	–	–	14	–	–	–	–	–	–	–	– – – – –	10,000 00			April 10.
" "	do.	Wm. Fort & Co.,	C. Collins, H. Craft,	do. – – – – 143	" 15,	"	–	–	–	–	14	–	–	–	–	–	–	–	– – – – –	5,000 00			May 15.
																							May 20.
" 21,	D. Timberlake,	his bill,	W. A. Kain, Ass't Cashier,	B. R. Smith, – – – 144	" 21,	60 d'st,	–	–	–	–	25	–	–	–	–	–	–	–	entered 10 July, –	3,500 00	44 92	3,455 08	returned.
" 25,	Jos. Cumming, A'gt,	Cashier Branch Bank Darien,	Jos. Cumming, Ag't,	Planters' and Mechanics' Bank, – 145	" 20,	"	–	–	–	6	–	–	–	–	–	–	–	–	– – – – –	2,533 44			April 10.
April 1,	ditto,	ditto,	ditto,	do. – 146	" 27,	"	–	–	–	26	–	–	–	–	–	–	–	–	– – – – –	15,953 76			April 28.
" 4,	B. Baud,	his bill,		Matthews & Bouneau, – 147	April 3,	30 d'st,	–	–	–	–	5	–	–	–	–	–	–	–	– – – – –	1,000 00	7 00	993 00	May 15.
" 8,	R. F. Poe, Cashier,	T. Ragland, Cashier,	J. R. St. John & Co.,	Cashier Bank Charleston, – 148		10 d'st,	–	–	–	22	–	–	–	–	–	–	–	–	– – – – –	20,000 00			April 24.
" 12,	J. McKenzie,	his bill,	A. J. Miller,	W. S. Dewar, – – – 149	" 13,	60 d'st,	–	–	–	–	–	12	–	–	–	–	–	–	– – – – –	1,100 00	13 69	1,086 31	returned.
" 25,	T. McGraw, A'gt,	Purvis, Andrews & Crawford,	T. McGraw, Ag't,	D. & J. Ewart & Co., – – 150	" 22,	5 d'st,	–	–	–	–	5	–	–	–	–	–	–	–	– – – – –	3,507 91			May 8.
May 10,	R. F. Poe, Cashier,	D. Timberlake,	R. F. Poe, Cashier,	B. R. Smith, – – – 151	May 6,	60 d'st,	accepted May 9,		–	–	–	–	9	–	–	–	–	–	charged 24 July, –	8,000 00	sec'd by collateral note		returned.
" 19,	Wm. Melrose, A'gt,	W. Fort & Co.,	Craft & Lewis, Hamilton H. & Co.,	R. W. Fort, – – – 152	" 11,	d'st,	–	–	–	–	10	–	–	–	–	–	–	–	– – – – –	2,500 00	see Journal, $6,		July 10.

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